

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.4069 OF 2014
WITH
CIVIL APPLICATION [L] NO.17229 OF 2019
IN
WRIT PETITION NO.4069 OF 2014**

Uttam Shivdas Jankar

Age – 48 years, Occupation – Agriculture,
Resident of Velapur, Taluka – Malshiras,
District – Solapur.

... Petitioner

Vs.

1. State of Maharashtra

Through its department of Social
Justice and Special Assistance,
Mantralaya, Mumbai – 400 032.

2. Schedules Castes, De-notified Tribes
(Vimukt Jatis), Nomadic Tribes,
Other Backward Classes and Special
Backward Category Welfare, Divisional
Caste Certificate Scrutiny Committee
No. 1, Solapur.

3. Sub-Divisional Officer,
Malshiras Sub-Division at Akluj,
District – Solapur.

4. Hanumant Jagannath Dolas
Age – 49 years, Occupation – Agriculture,
Residing at Kalawati Niwas, Dasur,
Post – Bondle, Taluka – Malshiras,
District – Solapur.

... Respondents

**WITH
CIVIL APPLICATION NO.2068 OF 2019
IN
WRIT PETITION NO.4069 OF 2014**

Hanumant Jagannath Dolas
(Deceased through heir, legal representative
and concerned party)
Shri Sankalp Hanumant Dolas
Age-28 years, Occu – Agriculture & Business,
Residing at Kalawati Niwas, Dasur,
Post – Bondle, Taluka – Malshiras,
District – Solapur. ...Applicant

IN THE MATTER OF :

Uttam Shivdas Jankar
Age – 48 years, Occupation – Agriculture,
Resident of Velapur, Taluka – Malshiras,
District – Solapur. ... Petitioner

Vs.

1. State of Maharashtra
Through its department of Social
Justice and Special Assistance,
Mantralaya, Mumbai – 400 032.
2. Scheduled Castes, De-notified Tribes
(Vimukt Jatis), Nomadic Tribes,
Other Backward Classes and Special
Backward Category Welfare, Divisional
Caste Certificate Scrutiny Committee
No. 1, Solapur.
3. Sub-Divisional Officer,
Malshiras Sub-Division at Akluj,
District – Solapur.
4. Hanumant Jagannath Dolas
Age – 49 years, Occupation – Agriculture,

Residing at Kalawati Niwas, Dasur,
Post – Bondle, Taluka – Malshiras,
District – Solapur.

... Respondents

Mr. A.Y. Sakhare, Sr. Advocate a/w Mr. Pramod N. Patil, Mr. Ajit Hon, Mr. Shyamsunder Solanke for petitioner.
Mr. Uday Nighot for respondent No. 4 in Writ Petition No. 4069/2019 and for applicant in CAW No.2068/19.
Mr. P.P. Kakade – GP a/w Mr. S.B. Kalel – AGP for State.

**CORAM : INDRAJIT MAHANTY &
N.B. SURYAWANSHI, JJ.**

JUDGMENT RESERVED ON : 11TH SEPTEMBER, 2019.

JUDGMENT PRONOUNCED ON : 25TH SEPTEMBER, 2019.

JUDGMENT : (Per N.B. SURYAWANSHI, J.)

Rule. Rule made returnable forthwith. Heard with consent of learned counsel for the parties.

2. By this Writ Petition No.4069 of 2014, the petitioner questions the legality and propriety of the order dated 24th March, 2014 passed by the respondent No. 2 Committee, by which the petitioner's claim as belonging to 'Khatik' (Scheduled Caste) is

invalidated, so also the caste certificate No.MAG/S/2/2009 dated 7th February, 2009 issued by the third respondent, i.e., Sub-Divisional Officer, Malshiras Sub-Division, certifying the petitioner to be belonging to 'Khatik' (Scheduled Caste). By the impugned order, the said certificate was directed to be confiscated.

3. The petitioner initially in the month of December, 2007 contested the election of Velapur Gram Panchayat for two seats – one reserved for category of backward class of citizens and other for general category. He was elected from both the seats. The petitioner thereafter resigned from the seat reserved for backward class category and retained the seat of general category. The petitioner was also elected for the post of Sarpanch from general category.

4. Mr. Mohan Namdeo Kachare, who was the petitioner's political opponent, complained to Divisional Caste Certificate Scrutiny Committee No. 1, Pune that the petitioner does not belong to Dhargar caste and the petitioner's father's birth record of the year 1940 shows the petitioner's father's caste to be 'Hindu-Khatik'. Vide

order dated 15th December, 2008, the Committee No. 1, Pune invalidated the petitioner's caste certificate belonging to Dhangar, on the basis of the documents on record and indicated that the petitioner belongs to Khatik caste.

5. The petitioner on 7th February, 2009 applied to the third respondent for issuance of the caste certificate as the petitioner belongs to Hindu-Khatik by relying on the documents, viz., attested school leaving certificate of the petitioner, father's birth extract, school leaving certificate of real paternal aunt Baidabai Shankar Jankar of primary school showing her caste as 'Hindu (Dhangar) Khatik, the order passed by the Scrutiny Committee No. 1, Pune, extract of ration card, the certificates of Talathi and Sarpanch, Velapur showing the petitioner's caste as Hindu Khatik. The Sub-Divisional Officer, i.e., third respondent, after obtaining report, which states that upon inquiry it was found that the petitioner belongs to Hindu-Khatik caste, issued caste certificate bearing No.MAG/S/2/2009 dated 7th February, 2009 of 'Hindu-Khatik' in favour of the petitioner.

6. The fourth respondent filed an appeal / complaint before the Committee No. 1, Pune on 20th February, 2009 and challenged the petitioner's Khatik caste certificate. The petitioner filed Writ Petition No.4345 of 2009 seeking declaration that Committee No. 1 at Pune does not have jurisdiction to entertain the complaint. The said Writ Petition came to be withdrawn by the petitioner.

7. This court twice quashed and set aside the decision rendered by the Scrutiny Committee and remanded the matter back to the Committee No. 1 at Pune for fresh consideration. First time in Writ Petition No.5919 of 2009, wherein this court has observed that the petitioner has given up the claim that he belongs to Hindu Dhangar and the petitioner has claimed that he belongs to Hindu Khatik. Accordingly, the caste certificate of the petitioner of Hindu Dhangar was cancelled on the basis of concession made by the petitioner before the Committee No.1 and the petitioner thereafter obtained caste certificate in respect of 'Hindu Khatik', which was the subject matter in Writ Petition No.5919 of 2009, which was filed by the petitioner challenging the order dated 24th June, 2009 passed by the Committee No.1, Pune, rejecting the caste claim of the petitioner

belonging to Hindu-Khatik caste. By filing Writ Petition No.5593 of 2009, the petitioner challenged the order dated 8th June, 2009 passed by the State Government transferring the pending inquiry from Caste Scrutiny Committee No.1 to Committee No.3 at Pune. This court after ascertaining from the petitioner that he is interested in claiming as 'Hindu Khatik (SC)', after recording the concession of all the parties, set aside the order dated 24th June, 2009 of the Committee, passed a common order in Writ Petition Nos.5919 of 2009 and 5593 of 2009 and the matter was remanded back to Committee No.1, Pune for fresh inquiry, by ignoring the evidence led before the Committee No.3 and by calling fresh Vigilance Cell report.

8. During the course of inquiry before the Committee No.1, the petitioner relied upon various documents, including the extract regarding the entry of death of Sonubai Kom Bapurao Khatik, who was petitioner's paternal grandfather's mother, dated 26th March, 1939, wherein her caste is mentioned as 'Khatik', an extract of birth of Shivdas Shankar Jankar, father of the petitioner, dated 6th February, 1940, wherein his caste is mentioned as 'Khatik', school

leaving certificate of Bayadabai Shankar Jankar (paternal aunt of the petitioner), wherein her caste is shown as Hindu–(Dhangar) Khatik. So also, the petitioner also relied upon the certified copy of the extract of birth/death register for the year 1931 of village Tandulwadi of Mhadu Ranu Khatik, great-great grandfather of the petitioner, wherein his caste is shown as 'Khatik', in terms of the order passed in Civil Application No.235 of 2014 in Writ Petition No.4362 of 2010. This court at that time directed the Committee to conduct the Vigilance Cell inquiry in respect of that document and also as to the relationship of Mhadu Ranu Khatik with the petitioner. The petitioner also relied upon various other documents. The petitioner, the Committee and the fourth respondent also examined various witnesses in support of their respective claims including the Vigilance Officer, Circle Officer, The butcher, who used to slaughter goats for the petitioner, elder villagers from the village of the petitioner's residence, the Headmaster, who issued leaving certificate of Bayadabai Shankar Jankar, etc.

9. The Vigilance Cell, after verifying all the documents and after conducting home/local inquiry, submitted a report in favour of

the petitioner that he belongs to Khatik caste. Deputy Superintendent of Police, Vigilance Cell Department also concurred with the Vigilance Cell Inspector's Report.

On the directions of the Committee No. 1, Vigilance Cell also submitted a supplementary report, wherein also the finding and observations in the first report dated 26th August, 2009 were confirmed. The supplementary report further stated that there is no scratching or over writing or change in ink in the original record of petitioner's paternal aunt, viz., Bayadabai Shankar Jankar and that the entry is genuine. This supplementary report is also confirmed by the Deputy Superintendent of Police, Vigilance Cell.

10. The Vigilance Cell submitted third report expressing some doubt about the handwriting in the original entry of 1931, stating that the entry appears to be in respect of female and not a male person. The Vigilance Cell, however, has conducted local inquiry only at Village Tandulwadi and not at the Village Dhanore, Taluka Malshiras, District Solapur, where the petitioner's forefathers and ancestors used to reside.

11. The second respondent Committee issued a show-cause notice dated 21st February, 2014 calling upon the petitioner to give explanation on certain aspects mentioned in clauses 'a' to 'e'. The petitioner was called upon to establish his relations with his relatives whose birth, death entries, petitioner has relied upon and also stating that the petitioner has not produced cogent and reliable evidence that he belongs to Hindu- Khatik.

12. The petitioner replied the said notice vide reply placed on record at Exhibit 'V' at pages 158 to 172 and pointwise dealt with all the contentions raised by the second respondent in show-cause notice. However, the Committee, by the impugned order dated 24th March, 2014, invalidated the caste claim of the petitioner. Hence, the present petition.

13. Vide order dated 1st October, 2009, the Committee by the majority of 2:1 invalidated the caste claim of the petitioner belonging to Khatik caste. The minority view was taken by the Member Secretary and Research Officer, who by giving reasons held that the claim of the petitioner belonging to Khatik caste is

valid.

14. The petitioner filed Writ Petition No.4362 of 2010 challenging the majority decision. Said Writ Petition was disposed of with consent of the learned senior counsel appearing for fourth respondent, by quashing and setting aside the order dated 1st October, 2009 passed by the majority of the Committee No. 1 and the matter was remitted for decision to the Committee No. 1, Solapur, with further direction that the matter be decided afresh, only on the basis of the evidence and material, which is already on record by giving opportunity to both the parties to make oral as well as written submissions. The Committee was to take decision on or before 21st February, 2014.

15. We have heard the learned senior counsel Mr. Sakhare for the petitioner, the learned Government Pleader for the respondent Nos. 1 to 3 / State.

16. During the pendency of the present Writ Petition, the fourth respondent expired and Civil Application No. 2068 of 2019

was filed by his son, viz., Shri Sankalp Hanumant Dolas, who is legal representative of deceased respondent No. 4, seeking permission to implead himself as respondent No. 4(a) by condoning the delay. We are not inclined to allow the said Civil Application as the cause of action does not survive on the death of the fourth respondent and his legal heir has no locus standi to contest present matter. Hence, the Civil Application stands rejected. However, we have also heard the learned counsel Mr. Nighot who represented the fourth respondent.

17. With the assistance of the learned counsel for the parties, we have perused the record.

18. The learned Government Pleader has made available original record, i.e., birth and death register of the year 1931, of Village Tandulwadi, Taluka Malshiras, District Solapur, birth and death register of the year 1939, of Village Akuj, Taluka Malshiras, District Solapur and birth and death registers of the years 1940 and 1942, of Village Natepute, Taluka Malshiras, District Solapur, from the Tahsil Office, Malshiras. We have perused the said original

record.

19. The learned senior counsel for the petitioner has assailed the impugned order being arbitrary and unreasonable. He would urge that the Committee has erroneously failed to consider the pre-independence documents, particularly the document of the year 1940 of the birth of father of the petitioner, without assigning proper reasoning, that the Committee has failed to follow the prescribed procedure as contemplated under the Maharashtra Schedules Castes, De-notified Tribes (Vimukt Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short 'the said Rules'). He would further submit that the petitioner has produced old documents and the Committee has failed to consider them in the proper perspective. It is further argued that Rule 17(11)(i) of the said Rules states that if the Committee was not satisfied about the claim of the applicant, after considering the report of the Vigilance Cell, then it was expected to call upon the petitioner to prove his caste claim by discharging his burden, as contemplated under section 8 of the Act, by issuing a notice in

FORM-25, coupled with copy of the report of vigilance inquiry, which is not done in the present case. The learned senior counsel further placed reliance on Rule 17 (7) proviso to contend that, though the finding recorded by the Vigilance Cell are not binding on the Scrutiny Committee, the Committee has to record its reasoning for not relying upon the same. It is contended that no reasons are recorded by the Scrutiny Committee for disagreeing with the report of the Vigilance Cell. Mere issuance of show-cause notice is not the compliance of the procedure prescribed in the said Rules and the impugned order of the Committee is vitiated on this ground also. It is further pointed out that the evidence of the third respondent, Tahsildar, Naib Tahsildar, Circle Officer, Clerk, Police Inspector from Vigilance Cell, Mr. Mulani, was recorded, which has not been properly taken into consideration by the Committee. It is further argued that two Vigilance Cell reports are in favour of the petitioner, however the Committee has failed to take them into consideration in the proper perspective and for discarding the Vigilance Cell report, no reasons are assigned. The learned senior counsel, therefore, strenuously urged that the impugned order passed by the Committee is vitiated on account of non-application of mind and

Committee has recorded perverse findings and the impugned order is not sustainable and hence liable to be set aside. He further prays for declaration that the petitioner belongs to Khatik caste, which is recognised as Scheduled Caste under the Constitution (Scheduled Castes) Order, 1950.

20. The learned Government Pleader for the second respondent has supported the impugned order passed by the Committee. During the course of argument of the learned Government Pleader, he was requested to verify from the officer of the Committee, who was present in the court, as to whether FORM No.25 was issued to the petitioner, so also whether any reasons are recorded by the Committee for disagreeing with the Vigilance Cell report. The learned Government Pleader, after taking instructions of the officer of the Committee, fairly states that neither notice u/FORM No.25 was issued to the petitioner nor the Committee has recorded the reasons of disagreement with the two Vigilance Cell reports. Though, he sought to place reliance on page No.87 of the translated copy, to contend that there are reasons recorded. However, the portion relied upon at page No.87, reveals that the Committee has

recorded that, though the Vigilance inquiry report is partially in favour of the candidate, the inquiry officer of the Vigilance Cell has not done the inquiry based on the facts and the claim made by the respondent for the caste of Hindu-Khatik is wrong and suspicious, therefore show-cause notice was served upon him. It is further argued by the learned Government Pleader that the old documents of the petitioner's ancestors show caste as 'Dhangar' and they have more probative value. Therefore, he supports the impugned order.

21. During the course of inquiry, the petitioner has examined 18 witnesses in support of his claim. The fourth respondent examined 10 witnesses. The Committee has examined 11 witnesses, out of them 8 were Government/Semi-Government employees, including the Vigilance Cell Officer. The witnesses examined by the petitioner and the Committee including the Government employees and the Vigilance Cell Officer have supported the claim of the petitioner and inspite of cross-examination conducted on behalf of the fourth respondent, nothing damaging to the case of the petitioner is brought on record.

22. Before the Committee, the petitioner relied upon 56 documents, however, we will consider only three pre-independence era documents and one post-independence era document relied upon by the petitioner.

(a) The petitioner has relied upon entry No.13 in the birth and death register of Village Natepute, dated 6th February, 1940. As per the said entry, Shivdas was born to Shankar Bapu Jankar. In the caste column, the caste is mentioned as 'Khatik'. In the remark column, it is stated that he belongs to other village.

The Committee has erroneously discarded this entry by stating that the fourth respondent has produced the birth certificate which states that on 30th November, 1942 Shivadas was born to Shankar Bapu Jankar. It is pertinent to note that in the caste column of this entry, the caste is mentioned as 'Khatik'. According to the Committee, in the register of 1942 there is scoring in the entry from Sr. No. 70 to 92 and there are no initials. The Committee proceeded to hold that in view of two entries in respect of birth of father of the petitioner of the years 1940 and 1942, the said evidence is not reliable. The said finding recorded by the Committee is erroneous. The petitioner has specifically averred that his father was born on 6th

February, 1940 and the extract of the register of the said entry was rightly relied by the petitioner. Merely, because the fourth respondent produced the birth certificate for the year 1942 to create confusion, the Committee could not have lightly brushed aside the certificate of the year 1940. The Committee has also ignored the fact that even in the certificate of the year 1942, the caste was mentioned as 'Khatik'. So also the Vigilance report finding that the entry of 1940 of petitioner's father is genuine and there is no scoring, etc., is ignored by the Committee.

(b) The another document relied upon by the petitioner is entry No.42 in the birth and death register of the mother of grandfather Sonubai Kom Bapurao Khatik, dated 26th March, 1939 and in the caste column, the caste is mentioned as 'Khatik'. This document is discarded by the Committee holding that in front of Sonubai, her husband's name is not mentioned as Bapu Mhadu Jankar, but it is mentioned as Bapurao Khatik. Therefore, it is not confirmed that Sonubai was the wife of great-great grandfather of the petitioner. It is further held that for establishing the relation with Sonubai, the petitioner has produced certificate of Village Development Officer, Grampanchayat Dhanore, Malshiras, District

Solapur, who is not competent authority to issue such certificate.

No contrary evidence is there on record to disbelieve the said entry and the Vigilance Officer has confirmed in his report after making necessary inquiries, it was found that Sonubai was great-great grandmother of petitioner. The said fact is also reaffirmed by the Vigilance Cell Officer in his statement/deposition before the Committee. In this view of the matter, the Committee was not justified in discarding the said document.

(c) The next document relied upon by the petitioner is the birth and death register extract of great-great grandfather of the petitioner, namely, Mhadu Ranu Khatik, which shows that he died on 20th January, 1931, wherein his caste is mentioned as 'Khatik'. An inquiry was conducted by the Vigilance Cell in respect of this certificate at Village Tandulwadi and the Vigilance Cell report states that at Village Tandulwadi, there is not a single family of Khatik caste and nobody knows Mhadu Ranu Khatik. The Committee on that basis and on the basis that in the register, a female is shown to have been expired, has come to the conclusion that in the male/female column, female is mentioned in the said extract in front of Mhadu's name and hence deceased Mhadu Ranu Khatik was

female and hence the said evidence is not reliable. The petitioner is original resident of Village Mauje Dhanore, Taluka Malshiras, District Solapur and hence there was no occasion for registering the said entry at Village Tandulwadi. The Committee has also come to the conclusion that the petitioner has not established his relation with Mhadu Ranu Khatik. Hence, the said document was discarded.

The said conclusion arrived at by the Committee by rejecting the said document is totally unreasonable and unsustainable. By no stretch of imagination, it can be said that Mhadu Ranu Khatik was a female and the petitioner has failed to establish his relation with Mhadu Ranu Khatik. The petitioner has produced before the Committee his genealogy alongwith affidavit. The genealogy starts from Mhadu Ranu Khatik (the great-great grandfather). The Committee has erred in not considering the said document in favour of the petitioner.

(d) One more document relied upon by the petitioner is the school leaving certificate of Bayadabai Shankar Jankar. The said certificate was verified by the Vigilance Cell by visiting the school and going through the original record and in the inquiry by the Vigilance Cell, the statement of the then Headmaster, who issued

the leaving certificate, namely, Harischandra Changdeo Khude is recorded, wherein he confirmed that school leaving certificate was issued by him and her caste is mentioned as Hindu-(Dhangar) Khatik. The Vigilance Cell has confirmed that there is no overwriting or addition or scoring in the said original record. This also supports the claim of the petitioner. However, the Committee has discarded this on the ground that Hindu-(Dhangar) is mentioned in the caste column in the first line and 'Khatik' is written on the next line in different ink and handwriting. We have perused the original register of the said entry and we do not find any overwriting and/or different handwriting in the said entry, there is also no difference in ink. The Committee has ignored the said certificate on untenable reasoning.

23. There are two Vigilance Cell's reports dated 26th August, 2009 and supplementary report dated 31st August, 2009, which supports the case of the petitioner. The Vigilance Officer (the Police Inspector, Vigilance Cell) has personally visited the Village Natepute and has also conducted local inquiry in the village of the petitioner's father, i.e., at Dhanore. The original birth and death extracts were verified by the Vigilance Officer and the Vigilance Officer has

specifically mentioned in his report that caste entry as 'Khatik' was found in the birth and death register of the year 1940 of village Natepute in front of the entry of birth of father of the petitioner, viz., Shivdas Shankar Jankar and there is no alteration or change in the handwriting or ink. The Vigilance Officer has also verified from the School Leaving Certificate of paternal aunt of petitioner, viz., Bayadabai Shankar Jankar and he found an entry of caste as Hindu-(Dhangar) Khatik. The Vigilance Officer has also verified the birth and death register entry of Sonubai Kom Bapurao Khatik, who expired on 26th March, 1939, who is mother of grandfather of Uttamrao Shivdas Jankar, whose caste is mentioned as 'Khatik'. He has stated in the report that Sonubai Kom Bapurao Khatik is one and the same person and Uttamrao Shivdas Jankar has filed affidavit saying that she was mother of his grandfather and earlier surname used to be according to the profession. It is further stated that there is no alteration or change in the handwriting or ink in the original record.

The Vigilance Cell Officer has also considered the revenue record as well as other documents by personally verifying the original records. The Vigilance Cell during the course of local

inquiry has recorded the statements of the villagers from Village Dhanore, which is native place of petitioner and his ancestors, so also the statements of the Government employees from the said village. Statement of Shamsuddin Mohiddin Mulani, who works in the mutton and chicken shop of the petitioner, by name Uttam Mutton & Chicen Centre was also recorded. He confirmed that he is doing the work of slaughtering in the shop since last 25 years, i.e., since opening of the shop. The Vigilance Cell report is in consonance with Rule 13 of the said Rules.

The Vigilance Officer therefore submitted his report dated 26th August, 2009 which is in favour of the petitioner. The said report is confirmed by the Deputy Superintendent of Police, Vigilance Cell of the said Committee.

24. In the supplementary report, the Vigilance Officer has verified school leaving certificates of close relatives of the petitioner and he also made inquiry with Mr. Harischandra Changdeo Khude, the then Headmaster, under whose directions, paternal aunt Bayadabai Shankar Jankar was issued school leaving certificate in which the caste of the paternal aunt is shown as 'Hindu'(Dhangar)

Khatik'. The same was done by visiting Zilla Parishad Primary School at Dhanore, Malshiras, District Solapur.

25. The relevant provision of Rule 17 is as follows :-

"17. Procedure of Scrutiny Committee :- (1)

(2)

(3)

(4)

(5)

(6)

(7) If Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 of Rule 4 of the Code of Civil Procedure, 1908, as well as other evidence and documents furnished along with any application or proposal, is of the opinion that the documents do not satisfy or conclusively prove the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim, the Scrutiny Committee by mentioning the same in the Roznama, Shall refer such case to the Vigilance Cell for carrying out suitable inquiry, as is deemed fit, by Scrutiny Committee.

Provided that, finding recorded by the Vigilance Cell shall not be binding on Scrutiny Committee, as the vigilance inquiry is meant for internal assistance to the Scrutiny Committee. The Scrutiny Committee shall record its reasons for discarding the

report of Vigilance Cell.

(8)

(9)

(10)

(11) (i) *In case of those cases which are referred to Vigilance Cell upon considering the 'Report of Vigilance Cell', if the Scrutiny Committee is not satisfied about the claim of the applicant, it shall call upon the applicant to prove his Caste claim, by discharging his burden, as contemplated under section 8 of the Act, by issuing a notice in FORM-25 coupled with copy of 'Report of Vigilance Inquiry';*

(ii) *After issuance of notice/intimation, if applicant requests, by way of written application, for copies of vigilance inquiry report or any other document or prays for adjournment, reasonable time for final hearing or for submitting written submissions, it may be granted;*

(iii)”

In view of Rule 17(7) proviso quoted hereinabove, which states that finding recorded by the Vigilance Cell shall not binding on the Committee, as the Vigilance Inquiry is meant for internal assistance to the Scrutiny Committee. 'The Scrutiny Committee shall record its reasons for discarding the report of Vigilance Cell'. [Emphasis Supplied]. It is a matter of record that the Committee in the present case has not recorded any reasoning while discarding the report of the Vigilance Cell. It is further clear that the procedure

as contemplated under Rule 17 (11)(i) is not complied with by the Committee. No notice in FORM-25 is forwarded to the petitioner, as has been fairly admitted by the learned Government Pleader in the present case. The Committee has therefore committed serious procedural impropriety and infraction of these two Rules vitiates the impugned order passed by the Committee.

26. The Committee has not even discussed about the home/local inquiry by the Vigilance Cell Officer, wherein he has inquired with old villagers from the native of petitioner, i.e., Dhanore, the customers of petitioner's shop, the person, who is assisting the petitioner in slaughtering, Mr. Mulani, so also other local government officers like Circle Officer, Village Development Officer who confirmed the profession of the petitioner to be that of 'Khatik'. This aspect is not at all dealt with by the Committee in the impugned order. The Committee has not dealt with the statements recorded during the course of inquiry regarding avocation of the petitioner, of the villagers of the native of the petitioner, from the village of present residence of the petitioner, the statement of Vigilance Officer and other statements, which are in favour of the petitioner and which

supports the claim of the petitioner. There is no contrary evidence on record to show that the petitioner is not having the business of meat selling. In this view of the matter also the impugned order suffers from non-application of mind and the same is unsustainable.

27. In the case in hand, the Committee has failed to give proper weightage to the vital and relevant documents of pre-independence era, which have higher probative value and the same have been lightly brushed aside by the Committee by giving erroneous reasoning. The Committee has failed to consider the relevant material placed before it and did not apply its mind to the old documents, the statements recorded during the course of inquiry before the Committee, the Vigilance Cell reports, which led the Committee ultimately to record the finding against the petitioner. The Committee has discarded the relevant evidence in favour of the petitioner without assigning plausible reasons.

28. In the light of the abovestated facts, the impugned order dated 24th March, 2014 passed by the Committee can not be sustained and the same is hereby quashed and set aside. The claim

of the petitioner is held valid for 'Khatik' caste, which is recognised as Scheduled Caste under the Constitution (Scheduled Castes) Order, 1950 and the Committee is hereby directed to issue the validity certificate of 'Khatik' caste in favour of the petitioner within a period of four weeks from today. Rule made absolute in the above terms with no order as to cost.

29. Civil Application, if any, is disposed of in view of disposal of the present Writ Petition.

(N.B. SURYAWANSHI, J.)

(INDRAJIT MAHANTY, J.)