

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4109 OF 2012

**SHAIKH SHAKER SHAIKH AHMED
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Shri Anandsing Bayas
AGP for Respondents: Shri P. N. Kutti
Advocate for Respondent No.3 : Shri A. K. Tiwari
...

**CORAM : SUNIL P. DESHMUKH AND
B. U. DEBADWAR, JJ.**

DATE : 17th FEBRUARY, 2020

PER COURT :

1. Learned counsel for petitioner seeks leave to amend the petition and add party.
2. Leave granted. Amendment to be carried out forthwith.
3. Issue notice to the added party. Learned Assistant Government Pleader waives service of notice for added party.
4. Learned counsel for petitioner contends while forefathers and kins of petitioner were bearing name '*Shah*' as prefix or suffix and there are several documents to that effect and while their occupations have been shown to be '*Fakir*', the same has not been apparently taken into consideration, since the Government Resolution dated 29-06-2006 had been withdrawn pursuant to order of this court in 2009. However, subsequently the State Government

has issued resolution dated 23-03-2011, particularly, referring to that while considering claims for '*Chhaparband*' community, the name as '*Shah*' and occupation as '*Fakir*' would be taken into account. He submits, in view of Government Resolution dated 23-03-2011 aforesaid aspects would be required to be taken into account. He contends that this aspect has not been taken into account by the Divisional Caste Scrutiny Committee. He purports to rely on order dated 19-07-2011 passed by this court in Writ Petition No. 6018 of 2010.

5. Learned Assistant Government Pleader submits that it is not a case wherein concerned aspects have not been considered at all by the committee.

6. Although, learned counsel have referred to as above, yet, one may have to consider an additional thing that the Committee had declined claim of the petitioner for want of production of record with reference to validity issued in favour of his cousin.

7. In the circumstances, we deem it expedient that the petitioner may have an opportunity to avail of and invoke benefit of Government Resolution dated 23-03-2011, and by producing relevant documents or the committee may consider the record of cousin of petitioner and decide on the claim made by petitioner as

had been considered by Division Bench.

8. In view of above, we deem it expedient to set aside order issued by the Divisional Caste Scrutiny Committee dated 06-03-2012 and the appeal of petitioner stands restored for Committee's reconsideration referred to as above.

9. The petitioner may remain present before the Divisional Caste Scrutiny Committee on 01-04-2020 for further prosecution.

10. With aforesaid directions, writ petition stands disposed of.

(B. U. DEBADWAR, J.)

(SUNIL P. DESHMUKH, J.)

SVH