

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

52 WRIT PETITION NO.1638 OF 2023

VISHESH SANDEEP PATADIYA THROUGH PARENTAL GUARDIAN FATHER
SANDEEP RAMESH PATADIYA
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND ANOTHER

...
Advocate for Petitioners : Mr. Tambe Rahul A.
AGP for Respondents/State : Mr. P.S. Patil
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**
DATE : 13th February, 2023

PC. :-

1. The issue that emerges from this petition is as regards whether a Gujar Sutar could fall in OBC category and whether Sutar (OBC-174) is exclusively available only for the Gujar Sutar community in Maharashtra. The contention of the petitioner is that his three generations have been in Maharashtra since 1940 which is much prior to the first re-organisation of the States in 1956. Even after the second re-organisation of the State in 1960, when the State of Gujarat was carved out from the erstwhile Bombay State giving birth to the State of Maharashtra and the State of Gujarat, the ancestors of the petitioner continued to remain in Maharashtra since their roots were in

Maharashtra. Though their mother tongue is Gujarati, they were all along in the State of Maharashtra.

2. It is further submitted that the school entry pertaining to the cousin grandfather of the petitioner indicates the caste as Sutar. He was also born in Shrirampur in 1956. He had joined the Nutan Gujarati School in Shrirampur. This document was inadvertently lost sight of by the petitioner's guardian and was not placed before the committee. The petitioner has tendered before us an affidavit of his father indicating the family tree. Though this has been sworn on 07.02.2023, it is on the basis of the document of the cousin grandfather referred to above which was not noticed earlier. He submits that these documents need to be placed before the respondent no.2 for proper consideration keeping in view that about three to four generations of the petitioner's ancestors were residing in the Ahmednagar District.

3. The learned AGP points out that the impugned order is a result of certain entries of the paternal relatives of the petitioner as Hindu Sutar and some as Gujar Sutar. The contradiction is on account of such entries of Gujar Sutar and Hindu Sutar. He, however, fairly states that the entry of the petitioner's cousin grandfather was not placed before committee. The petitioner's father has acquired a duplicate copy of the same from the K.J.S.

High School at Shrirampur. If this document is to be considered, the competent committee will have to take assistance of its vigilance cell.

4. In view of the above, and to ensure that the ends of justice are met, we are of the view that this case deserves to be remitted to respondent no.2-committee for verifying the claim of the petitioner for a caste certificate.

5. This petition is, therefore, partly allowed. The impugned order of the committee dated 22.12.2022 is quashed and set aside and the file bearing no. 576794/2022-2023/7559 stands remitted to respondent no.2. Let the petitioner put-forth all the documents that he desires to rely upon, by tendering an affidavit mentioning the exhaustive family tree before the committee.

6. The petitioner shall appear before the respondent no.2 on 27.02.2023 at 12.00 noon. He would deposit the documents and the affidavit that he desires to rely upon, before the committee. Let the committee follow the due procedure laid down in law and take the assistance of the vigilance cell for verifying the documents as well as the claim of the petitioner with regard to the petitioner's paternal relatives. Let this entire exercise be completed on or before 15.04.2023.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]