

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

**WRIT PETITION NO. 4866 OF 2023**

Shaha Shershah Mastan Shaha .. Petitioner

**Versus**

District Caste Scrutiny Committee  
Aurangabad through Member Secretary .. Respondent

Shri Bhausahab S. Deshmukh, Advocate for the Petitioner.  
Shri S. G. Sangle, A.G.P. for Respondent/Committee.

**CORAM : NITIN W. SAMBRE AND  
S. G. CHAPALGAONKAR, JJ.  
DATE : 27TH APRIL, 2023.**

**FINAL ORDER :**

. Heard Mr. Deshmukh, learned counsel for the petitioner. The petitioner, has approached this Court seeking quashing of the impugned order passed by the respondent/Committee thereby his prayer for issuance of validity certificate as that of belonging to Chhapparband (V. J.) came to be rejected vide the impugned order dated January 10, 2023.

2. The case of the petitioner is caste certificate was issued to him on September 16, 2006 and since he was contesting election of gram panchayat, proposal for verification of caste certificate was forwarded through the election officer.

3. Learned counsel Mr. Deshmukh would urge that once the

proposal was forwarded to the Committee, the petitioner was required to be summoned by the respondent/Committee so as to offer him opportunity of hearing by making available the report of vigilance cell. He would urge that in view of communication gap neither he was able to submit his explanation to the vigilance Cell report, nor he could appear before the Committee for the purpose of establishing his claim as belonging to Chhapparband. Mr. Deshmukh, during the course of hearing has invited our attention to the document which he claims to be in relation to his father. According to him the school record of the father of the petitioner depicts an entry as Fakir. Drawing support from the Government Resolution dated 23<sup>rd</sup> March, 2011 particularly clause 1 of the G. R., he would urge that said document, which is of the year 1965 substantiates contention and establishes the case of the petitioner as that of belonging to Chhapparband. As such Mr. Deshmukh would urge that this Court by putting certain condition of deposit of cost can set aside the impugned order and relegate the petitioner before the respondent/Committee.

4. Mr. Sangle, learned Assistant Government Pleader for respondent/Committee would oppose the prayer as according to him sufficient opportunity of hearing was granted to the petitioner and the petitioner has chosen not to appear before the Committee.

5. We have appreciated respective submissions.

6. Petitioner being holder of a caste certificate as belonging to Chhapparband (V.J.) is not in dispute.

7. As the claim of the petitioner for verification was referred to the District Caste Scrutiny Committee, the said Committee had called for an enquiry through vigilance cell. The vigilance cell submitted its report dated 21<sup>st</sup> June, 2022, copy of which was duly served on the petitioner.

8. The petitioner by aforesaid vigilance cell report was called upon to submit his explanation to the same, which he has failed to. Subsequent to above, though the matter was placed before the Committee for hearing, the petitioner has failed to appear before the Committee. As can be inferred from the impugned order, the petitioner on 30<sup>th</sup> August, 2022 when appeared before the Committee, he has acknowledged receipt of the vigilance cell report and also he was informed to submit the explanation to the same. Such explanation was to be submitted by the petitioner as was informed to him on 20<sup>th</sup> September, 2022.

9. It appears that on 20<sup>th</sup> September, 2022, the petitioner remained present before the Committee and sought adjournment.

10. Subsequent thereto again the matter was adjourned at the behest of the petitioner. However, the petitioner has neither

appeared, nor submitted his explanation to the vigilance cell report. In this background, the committee based on vigilance cell report has proceeded to evaluate the documentary evidence. The committee accordingly passed impugned order thereby rejecting claim for validity.

11. Section 8 of the Act cast burden on the candidate like petitioner to *prima facie* establish that the candidate belongs to tribe/caste as has been claimed by him. In the case in hand inspite of vigilance cell report was served on the petitioner, the petitioner has failed to submit his explanation. Apart from above, the petitioner has failed to appear before the Committee so as to establish his claim that of belonging to Chhapparband (V.J.).

12. Though Mr. Deshmukh has tried to rely on the entry of 1965 in relation to the father of the petitioner, wherein Fakir is mentioned. The fact remains that such entry has only guiding effect and not mandatorily required to be accepted. In respect of aforesaid finding, the mandate provided in the Government Resolution dated 23<sup>rd</sup> March, 2011 is required to be taken into account. The aforesaid government resolution has prescribed that entry as Fakir in the document will have guiding effect and not conclusive effect of having belong to such caste or establish as such. Said contentions of Mr. Deshmukh are rejected.

13. In view of the above, what can be noticed from the

impugned order is, the petitioner has failed to establish that he belongs to Chhapparband and the Committee accordingly was justified in rejecting the claim. The conduct of the committee cannot be faulted for not affording opportunity of hearing as has been claimed by him as perusal of the impugned order reflects that the petitioner was given sufficient opportunity and notice. No case for interference is made out. Petition as such fails and stands dismissed.

[ S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

*bsb/April 23*