



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11493 OF 2022

Jahangir s/o Asif Iqbal Shaikh
minor UG Father namely
Shaikh Asif Iqbal s/o Abbas

... PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary, Tribal
Social Justice & Special Assistance
Department, Mumbai
2. District Caste Certificate Verification
Committee, Ahmednagar, through
its Secretary, Revenue Complex,
Bangal Chauki, Brud Galli,
Ahmednagar – 414001
3. Sub-Divisional Officer, Ahmednagar,
Dist. Ahmednagar
4. The Principal
Amrutvahini Polytechnic College,
Amrutnagar, Sangamner
Dist. Ahmednagar

... RESPONDENTS

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Advocate for Petitioner : Mr. P.B. Shirsath
A.G.P for respondent/State : Mr. S.V. Hange
Advocate for respondent No.4 : Mr. S.K. Shinde

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**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 15.12.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides and perused the papers.

2. The petitioner's certificate of 'Chhapparband' has not been validated by the Committee for the reasons mentioned in the impugned order.

3. Having heard both the sides and having perused the papers it transpires that the Committee has considered the preconstitutional record and has even used it against the petitioner, wherein, the entries were Musalman (Sunni)/Musalman. One wonders as to how Musalman could have been treated as a caste or even for that matter 'Musalman Sunni' could be treated as a contrary entry.

4. Pertinently, the petitioner was also relying upon simultaneously the caste validity certificates of three individuals but the committee has only commented upon one of the three possessed by one Shaikh Riyaz Raju stated to be petitioner's second degree cousin. The Committee has discarded it simply by observing that the petitioner had failed to produce corroborative evidence to substantiate the genealogy. Admittedly, the validity holder had filed affidavit in support of the petitioner's claim and had also furnished the genealogy demonstrating both of them being the members of the family of which common ancestor was one Bapushah Fakir. Without expressing anything as to why the affidavit of the validity holder was not believable, the Committee has discarded it which it could not have legally done.

5. Again, apart from the fact that the other two validities were not even considered, the Committee itself could have taken positive steps. Once the affidavits of the validity holders were produced or the validity certificates were relied upon, it could have easily called the original record of the validity holders and verified the fact including undertaking a

comparison of the genealogies being furnished by the claimant and the one furnished by the validity holders in their own matter. Instead of taking such positive steps, the Committee has acted in an indifferent manner which should not have been the approach of the Committee particularly assigned the *quasi judicial* powers and is supposed to objectively verify the social status of the backward classes.

6. Again, it is being pointed out that in the matter of one Alim Ayyub Shaikh, resident of Chanda Tq. Newasa, District Ahmednagar, the Committee has validated a similar 'Chhapparband' caste certificate by the order dated 14.10.2022, whereas, in the present matter the impugned order was passed on 03.08.2022. As is being pointed out by the learned advocate for the petitioner from the order passed in the matter of Alim Ayyub Shaikh, a copy of which he tenders across the bar, many of the entries being relied upon by the present petitioner, wherein, the record was Musalman Fakir, Musalman Sunni or Musalman in respect of the same individuals namely Bapushah and Sardar Bapushah, Ashaq Ali Sardarshah Bapushah Fakir, Shaikh Ali Balashah Bapushah Fakir were considered by the Committee and still the certificate was validated. Also, the validities is being relied upon by the petitioner were also produced by Alim Ayyub Shaikh, of Shaikh Riyaz Babulal and Shaikh Kalim Musa, and his claim was validated.

7. In view of the above state of affairs, in our considered view the Committee has not undertaken the scrutiny of the petitioner's Chhapparband tribe claim in a judicious manner.

8. It would be appropriate that the matter is remanded back to the scrutiny committee for decision afresh in light of the above observations. This would enable the petitioner to produce additional documents including the certificate of validity issued to Alim Ayyub Shaikh and the order passed therein.

9. The writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded back to the Scrutiny Committee for decision afresh in accordance with law by extending an opportunity to the petitioner to produce additional documents and in light of the above observations.

10. The petitioner shall appear before the Committee on 22.12.2023 and the Committee shall decide the matter within eight weeks thereafter.

11. The respondent No.4 shall permit the petitioner to undertake further education in the Diploma in Automobile Engineering and shall not create any obstacle, unless the committee invalidates his claim.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)

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