



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8101 OF 2012**

Shaikh Mohamed Mubashir s/o Mohd. Yousuf,
Age: 22 years, Occ: Student,
R/o. Omer Colony, Degloor Naka, Nanded,
Tq. & Dist. Nanded.

..Petitioner

Versus

1. The State of Maharashtra,
Through it's Secretary,
Mantralaya, Mumbai-32.
2. The S.C., V.J., N.T., O.B.C. & S.B.C.
Divisional Caste Certificate Scrutiny
Committee No.2, Aurangabad Region, Latur. ..Respondents

...

Mr. P. V. Jadhavar, Advocate for the Petitioner.

Mr. N. S. Tekale, Advocate for Respondent Nos.1 and 2.

...

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATED : 23rd JANUARY, 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India impugning order dated 27.06.2012 passed by respondent no.2- S.C., V.J., N.T., O.B.C. & S.B.C. Divisional Caste Certificate Scrutiny Committee No.2, Aurangabad Region, Latur.

3. Mr. Jadhavar, learned Advocate appearing for the petitioner would submit that the petitioner belongs to 'Pinjari' community, which is recognized as Other Backward Class. The Competent Authority has issued caste certificate to that effect in his favour. While petitioner was

pursuing his education, proposal for verification of the caste claim was forwarded to respondent no.2-Committee, which was supported by the documents like school leaving certificate, school admission extract and caste certificate. The respondent no.2-Committee referred petitioner's proposal for vigilance enquiry. On receipt of the vigilance report, the Committee issued show cause notice as to why his claim shall not be invalidated, as on the basis of *prima facie* material surfaced in vigilance enquiry, the claim of the petitioner does not get support. The petitioner filed detail reply alongwith documents which includes the school admission register in respect of his father for the year 1961, wherein the caste is recorded as '*Pinjari*'. The Headmaster of the school has communicated the aforesaid fact to the Vigilance Officer and further confirmed that the entry in the school record is flawless. However, the Committee did not consider impeccable material and invalidated the caste claim of the petitioner on the ground that no evidence prior to 13.10.1967 has been tendered in support of caste claim.

4. Mr. Tekale, learned AGP for respondent nos.1 and 2 supports the order passed by the Committee and contends that adequate reasons have been recorded by committee in impugned order while invalidating the caste claim of the petitioner.

5. We have considered the submissions advanced by the respective parties. We have perused the original record of the proceedings before the Committee. We could see communication dated 19.09.2008 addressed by the Headmaster, Zilla Parishad High School, Ghungarala, Tq. Naigaon, Dist. Nanded to Police Inspector, Vigilance Cell of the Committee. The Headmaster has certified that the father of the petitioner namely Shaikh Mohd. Yousuf Mohd. Hussain was admitted to the school on 20.09.1961, and his caste has been recorded as '*Musalman (Pinjari)*'. The entry in the school admission register is un-

tampered. We have perused copy of school admission register certified by the Headmaster. The entry in the name of petitioner's father can be seen, with caste as '*Musalman (Pinjari)*'. The date of admission is 20.09.1961. Further details are duly filled in. On *prima facie* consideration of the aforesaid material, we do not find that the aforesaid document is manipulated or tampered. However, it was for the Committee to form opinion during the course of hearing based on report of the vigilance cell.

6. Perusal of the impugned order depicts that the Committee nowhere refers the aforesaid documents. The findings of the Committee is based on six documents enlisted in the order. The Committee records that the applicant failed to produce any documents prior to 13.10.1967 i.e. the date of Notification declaring '*Pinjari*' to be the Other Backward Class. We find that the observations of the Committee and final conclusion is in ignorance of the vital piece of evidence regarding school admission register dated 20.09.1961 in respect of father of the petitioner. In view of the aforesaid observations, we deemed it appropriate to set aside the impugned order and relegate the matter to the Committee for fresh consideration in light of the document dated 20.09.1961 i.e. school admission register entry of the petitioner's father. Hence, we proceed to pass following order:

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 27.06.2012 passed by respondent no.2-S.C., V.J., N.T., O.B.C. & S.B.C. Divisional Caste Certificate Scrutiny Committee No.2, Aurangabad Region, Latur is hereby quashed and set aside.

c. The matter is relegated back to the Committee for fresh consideration of the petitioner's caste claim for '*Pinjari*', Other Backward Class, particularly in light of the school admission register depicting the entry of caste of petitioner's father. The committee shall be at liberty to investigate in to genuineness of document with assistance of Vigilance cell.

d. The Committee shall be free to record its own finding as regards to the aforesaid document and also examine any other document tendered by the petitioner in support of his caste claim and pass fresh order in accordance with law. The aforesaid exercise be carried expeditiously and in any case within a period of six months from the date of this order.

e. The petitioner shall appear before the Committee on 15.02.2024 and submit documents, if any, in support of his caste claim and shall co-operate for early disposal of the proceeding before the Committee.

f. Writ Petition stands disposed of accordingly.

g. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE