



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11586 OF 2022

Irani Beg Sadekh Talib,
Age 18 yrs., Occ. Education,
R/o Shivaji Nagar, T.P.S. Road,
Parli (V), Tq. Parli (V), Dist. Beed.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,
Through Secretary,
Social Welfare Department,
Mantralaya, Mumbai – 400 032.
- 2 The District Caste Certificate Scrutiny Committee,
Dr. Babasaheb Ambedkar Samajik Nyay Bhavan,
Nagar Road, Beed, Tq. & Dist. Beed.
- 3 The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell, Mumbai,
8th Floor, New Excelsior Building, A.K. Nayak Marg,
Fort, Mumbai – 400 001.
- 4 Nagnathappa Halge Engineering College,
Parli (V), Tq. Parli (V), Dist. Beed.
Through its Principal.
(Deleted vide order dated 01.12.2023)

... Respondents

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Mr. S.S. Thombre, Advocate h/f Mr. S.V. Jadhavar, Advocate for petitioner

Mr. P.S. Patil, AGP for respondent Nos.1 and 2

Mr. S.G. Karlekar, Advocate for respondent No.3

Respondent No.4 - Deleted

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

RESERVED ON : 23rd FEBRUARY, 2024

PRONOUNCED ON : 05th MARCH, 2024

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 The petitioner challenges Judgment and order dated 27.09.2022 passed by respondent No.2, thereby rejecting his caste claim.

3 The petitioner claims that he is “Indian Irani” (Bhartiya Irani) by caste. He had applied for the caste certificate and accordingly it came to be issued on 05.02.2016. The caste validity certificate has been issued to his real brother. He is relying upon the same. Respondent No.2 by letter dated 17.10.2022 informed him that his caste claim has been invalidated. According to the petitioner, the caste claim ought not to have been invalidated when his brother is having the caste validity certificate. Further, it ought not to have been rejected on the ground that respondent No.2 has no jurisdiction.

4 Heard learned Advocate Mr. S.S. Thombre holding for learned Advocate Mr. S.V. Jadhavar for the petitioner, learned AGP Mr. P.S. Patil for respondent Nos.1 and 2 and learned Advocate Mr. S.G. Karlekar for respondent No.3.

5 It is to be noted that as per the decision of Full Bench of this Court in **Rajendra Shivram Thakur vs. State of Maharashtra and others** [AIR 2019 BOMBAY 251] it is held that -

“A candidate desirous of seeking caste certificate has to apply to the Competent Authority having jurisdiction over the area or place where the applicant or his/her forefathers were residing at the time of presidential order.”

Here, the impugned order would show that the documents which were produced to support the caste claim were a sale deed which was registered in Ahmednagar district. The sale deed was of the year 02.01.1959, that means, prior to 21.11.1961 i.e. the presidential order. It was stated that the Committee had given opportunity on four occasions to the petitioner to submit documents to show that he or his forefathers were resident of Beed district at the time of presidential order. However, no such document was produced, even written notice was appears to have been given and the copy of the roznama would also show that opportunity was given to the petitioner.

In fact, we had also granted opportunity to the petitioner to submit the documents which he had filed before the Sub Divisional Officer, Ambajogai, who had issued the caste certificate to him, however, no such documents have been produced.

6 The documents on record would then definitely show that the sale deed which has been relied by the petitioner to show that his forefathers' caste i.e. grandfather's caste was stated as "Irani Musalman" in the said sale deed dated 02.01.1959. But the said sale deed is executed at Shrirampur, Dist. Ahmednagar. He relies on the caste validity certificate issued to his brother by Caste Certificate Scrutiny Committee, Aurangabad Division Committee No.1, Aurangabad and then he had filed his caste claim before the District Caste Certificate Scrutiny Committee at Beed. Unless the petitioner approaches the competent authority as laid down in the Full Bench Decision in **Rajendra Shivram Thakur** (supra) no relief can be granted to the petitioner.

7 As regards the impugned order of respondent No.2 dated 27.09.2022 is concerned, we would like to say that when the Committee had come to the conclusion that it had no jurisdiction to decide the caste claim, then the claim ought to have been returned to the petitioner for its

presentation before the competent authority. The impugned order, in fact, makes a mention that when the matter was for hearing on 26.07.2022, it was suggested by respondent No.2 Committee that the petitioner should take up the matter with Ahmednagar Committee. Under the said circumstance, it ought not to have jurisdiction to invalidate the caste certificate issued by Sub Divisional Officer, Ambajogai, Dist. Beed to that extent, then the impugned order cannot be approved.

8 In view of the said situation the justice requires that the matter should be relegated to respondent No.2 to decide the jurisdiction afresh by giving a fresh opportunity to the petitioner to show how respondent No.2 has jurisdiction to decide the caste claim of the petitioner and in the event respondent No.2 comes to the conclusion that it has no jurisdiction, then to return the claim of the petitioner for its decision by the competent authority, in view of the decision of the Full Bench of this Court. Hence, following order.

ORDER

1 The writ petition stands partly allowed.

2 The impugned order dated 27.09.2022 passed by respondent No.2 stands quashed and set aside. The matter is relegated to respondent

No.2 to decide afresh on the point of jurisdiction.

3 Respondent No.2 to give fresh opportunity to the petitioner to lead evidence to show as to how the Sub Divisional Officer, Ambajogai, Dist. Beed has jurisdiction to issue the caste certificate and then to decide the validity of the same.

4 In case respondent No.2 comes to a conclusion that it has no jurisdiction, then the claim be returned to the petitioner to present it before the appropriate authority after obtaining the caste certificate from the appropriate authority, in view of the decision in **Rajendra Shivram Thakur vs. State of Maharashtra and others** [AIR 2019 BOMBAY 251].

5 The petitioner to appear before respondent No.2 on 11.03.2024 and thereafter produce evidence, in view of the observations in this Judgment and order.

6 The entire exercise be done by respondent No.2 within a period of two months from the date of the appearance of the petitioner before it.

7 Rule is made absolute in the above terms.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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