



Judgment

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1

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.2251 OF 2021

Rehan s/o Rehman Shah,
aged about 22 years, occupation:
student, r/o Azaad Nagar, near
Masjid, VMV Road, Amravati-
444601.

..... **Petitioner.**

:: VERSUS ::

1. The State of Maharashtra,
through its Secretary, Tribal
Welfare Department Mantralaya,
Mumbai: 32.

2. District Caste Verification and
Scrutiny Committee, Amravati
Division, Amravati, through its
Chairman/Member.

..... **Respondents.**

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Shri S.S.Dhengale, Counsel for the Petitioner.
Ms H.N.Jaipurkar, AGP for Respondents.

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CORAM : URMILA JOSHI-PHALKE & NIVEDITA P.MEHTA, JJ.

CLOSED ON : 30/07/2026

PRONOUNCED ON : 04/08/2026

JUDGMENT : (Per : Urmila Joshi-Phalke)

2

1. Heard learned counsel Shri S.S.Dhengale for the petitioner and learned Assistant Government Pleader Ms H.N.Jaipurkar for respondents. **Rule.**

2. By this petition, the petitioner has challenged order dated 26.10.2020 passed by respondent No.2 – District Caste Verification and Scrutiny Committee, Amravati Division, Amravati (the said Committee) invalidating his caste claim belonging to “Chhapparband.”

3. Learned counsel for the petitioner submitted that the petitioner belongs caste “Chhapparband” coming in the Category of “Vimukta Jati (A)”. He has passed 12th Std. in Science Stream and his caste claim was forwarded through the Principal of Zilla Parishad Government Boys’ High School and Junior College, Amravati on 7.10.2016 to the said Committee. He is pursuing his education and, therefore, he needs Caste Validity Certificate for his further education. The Sub Divisional Officer at Amravati has issued Caste Certificate

3

dated 8.7.2010 in his favour showing the petitioner belongs to caste “Chhapparband” recognized as “Vimukta Jati (A)” at Sr.No.14 under Government Resolution dated 23.3.1978. He filed in all twelve documents before the said Committee in order to prove his caste claim including Extract of Kotwal Book dated 21.9.1924 i.e. pre-constitutional entry in respect of birth of “Khairu Shah” who is his grandfather. He also placed on record another Extract of Kotwal Book Entry dated 27.9.1951, in respect of “Chhenu Shah” who is his great grandfather of which cut-off date is 1961. It is contended that despite pre-constitutional entries, as well as entry prior to cut-off date, the said Committee has not considered the same and invalidated his caste claim. It is further contended that persons belonging to caste “Chhapparband” were doing job of “Begging” as “Fakir” and, therefore, the condition was relaxed by Government Resolution dated 24.12.2002. The law is governing Muslim Community, particularly “Shah” and “Fakir” for treating them as “Chhapparband,” is explained in

4

Government Resolution dated 29.6.2006. However, these aspects are not considered by the said Committee and his caste claim was invalidated.

4. Learned counsel for the petitioner further submitted that despite furnishing pre-constitutional documents, as well as prior to cut-off date, the said Committee has not considered the same. The said Committee has also not considered that Caste Validity Certificate is already issued in favour of his real brother on the basis of the said documents. The forefathers of the petitioner were recorded "Fakir". The Government Resolution governing validity to the petitioner is dated 5.1.1999. The Government of Maharashtra has clarified that persons, having words "Fakir" in their names as a suffix, are treated to be " Chhapparband Muslim Persons" and shall be given Caste Validity Certificates of "Vimukta Jati (A)". In the said Government Resolution, it was provided that persons belonging to "Chhapparband" were doing job of "Begging" as "Fakir and they used to prepare forged coins. However, this

condition was later relaxed in the Government Resolution dated 24.12.2002. The law governing the Muslim Community, particularly “Shah” and “Fakir” for treating them as “Chhapparband,” is explained in Government Resolution dated 29.6.2026. It was explained and guidelines were given that while issuing Caste Validity Certificates to persons belonging to caste “Chhapparband”, three things need to be taken into account; (i) whether they belong to Muslim Religion; (ii) whether there is a word “Shah” as a suffix to their names; and (iii) whether there is entry of word “Fakir” in extract of documents of forefathers. The petitioner belongs to Muslim Religion. There are words “Shah” and “Fakir” as suffix in his name as well as names of his forefathers, till the entry of 21.9.1924.

5. Thus, learned counsel for the petitioner submitted that the order passed by the said Committee is also not in accordance with law laid down by this court in the judgment and order dated 16.10.2019 passed in Writ Petition5/-

No.5163/2018 wherein the Division Bench of this Court in paragraph No.6 has specifically considered aspect that, “even though the Government Resolution/Circular dated 23.3.2011 is cancelled by virtue of new Circular dated 16.2.2015, the Government has also taken its stand regarding validity certificate already granted before 16.2.2015. Circular dated 16.2.2015 is silent on this aspect of the matter and, therefore, the Division Bench of this Court stated that the State of Maharashtra must decided its further course of action as regards Caste Validity Certificates already granted to different persons on the basis of 2006 letter and subsequent circular. Thus, by virtue of the decision in Writ Petition No.5163/2018 dated 16.10.2019, the petitioner is entitled to receive the Caste Validity Certificate. Thus, he submitted that Circular dated 23.3.2011 is already considered in the above writ petition and, therefore, rejecting the claim of the petitioner on the basis of said Circular dated 23.3.2011 is illegal and, therefore, order

passed by the said Committee is liable to be quashed and set aside.

6. *Per contra*, learned Assistant Government Pleader for respondents strongly opposed the said contentions and submitted that in view of Amendment to Rule 16(h) of The Maharashtra SC, VJNT, OBC, and SBC (Regulation of Issuance & Verification of) Caste Certificate Rules 2012 and explanation thereof, mere production of above referred documents does not mean that applicant has discharged burden of proof. If applicant along with Caste Validity Certificates of his blood relatives from paternal side applied for Caste Validity Certificate, in such cases, Caste Validity Certificates of his father or blood relatives will be displayed on WebSite of Dr.Babasaheb Ambedkar Research and Training Institute, Pune (BARTI) as well as it will be displayed on Notice Board of concerned District Caste Certificate Scrutiny Committee. It will be conveyed to register objections, if any, about request of applicant within 15 days from such publication. If no
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objections/complaints are received, with regard to such application, the District Caste Certificate Scrutiny Committee will issue Caste Validity Certificate without asking for other documents of proof by considering that Caste Validity Certificate is important evidence.

As per the above prescribed procedure, the said Committee completed the procedure of displaying names of the petitioner and others applicants having Caste Validity Certificates of blood relatives on the Notice Board of the said Committee. The said Committee received an objection of Shri Chandan Tarasingh Chauhan, Social Worker of Taroda, Chandur Railway, District Amravati on 12.7.2019. Therefore, the said Committee stopped all cases of caste “Chhapparband” for making enquiry into complaints filed against claim of caste “Chhapparband”.

The claim of the petitioner was referred to Vigilance Cell for a detailed enquiry. The Vigilance Report shows that

there are adverse entries against forefathers of the petitioner as they are recorded as “Fakir” and not as “Chhapparband”. She further contended that this court in PIL No.102/2013 clarified when to apply directions issued in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee, reported in 2010(6) Mh.L.J. 401** in which it was held as under:

“However, if on erroneous presumption or erroneously construing the documents and without undergoing the process of scrutiny, vigilance etc. validity is granted to a member in the family, then such a Validity Certificate will not ipso facto entitle other members of the family to claim Validity Certificate on the basis thereof. In such a case, the Committee will be fully justified in holding de novo enquiry if it is found that the claim of such candidate is not supported by documentary evidence and there are contra documents available in denying the claim of such a candidate.”

Thus, in view of observations of this court, the said Committee has conducted an enquiry and, thereafter, come to conclusion that Government Resolution dated 23.3.2011 has

been cancelled by the Government Resolution dated 16.2.2015. Therefore, Caste Validity Certificate is issued only on the basis of three criteria and in spite of having contradictory evidence of forefathers which is of pre-independence era proves their caste as “Fakir” which comes under the category of “Other Backward Classes.” Therefore, the petitioner is not entitled for Caste Validity Certificate as belonging to caste “Chhapparband”. As such, no interference is called for.

7. After hearing both sides and perusing the entire record, it reveals that the petitioner has claimed Caste Validity Certificate on the basis of pre-constitutional documents showing that his grandfather was recorded as “Fakir”. The family tree shows that the petitioner’s great grandfather “Chhenu Shah” has one son “Khairu Shah” and said “Khairu Shah” has two sons “Rehman” and “Sikandar.” The petitioner is the son of “Rehman Shah” having one brother and one sister namely “Rizwan” and “Mumtaz Bano.”

8. Besides the family tree, the petitioner relied upon pre-constitutional entries i.e. Kotwal Book Extract of dated 21.9.1924 disclosing name of grandfather “Khairu Shah” as “Fakir”. Entry dated 27.9.1951 which is also Kotwal Book Entry in the name of great grandfather of the petitioner namely “Chhenu Shah Fakir.” These documents on which the petitioner relied upon, admitted, are pre-constitutional era and prior to 1961 i.e. the cut-off date.

9. Tribe “Chhapparband” was declared to De-notified in the year 2006 and deemed date for this De-notified Tribe was determined to be 21.11.1961. Thus, documents which were of period before November 1961 would have great probative value. The declaration of Tribe “Chhapparband” as De-notified Tribe was on the basis of letter dated 29.6.2006 issued by the Secretary, Government of Maharashtra.

10. This court in its order dated 4.12.2014 passed in Writ Petition No.2802/2014 (**Shaikh Ashif Nurshah Sheikh vs. The**

State of Mah., thr.its Secretary, Department of Social Welfare, Mumbai and ors) has taken note of letter dated 29.6.2006 and observed that the said letter though issued by the Secretary in his personal capacity, was shown in the name of the Government. It is further observed that letter dated 29.6.2006 was quashed and set aside by this court in judgment and order dated 27.1.2011 passed in Writ No.4506/2004. Thereafter, the Government has taken five years to withdraw the said letter 29.6.2006. Before withdrawal of the said letter, several certificates have been issued as per directions contained in letter dated 29.6.2006 for which the officer issuing letter was responsible. This court called upon the Principal Secretary, Department of Social Justice and Special Assistance, Government of Maharashtra to clarify the stand as to whether the Government wants to continue Circular dated 23.3.2011 or would like to withdraw it. Thereafter, Circular dated 16.2.2015, wherein the Government has taken its stand in the matter, and accordingly has withdrawn Circular dated

23.3.2011. However, while withdrawing the said Circular, the Government has not taken its stand regarding Caste Validity Certificates already granted to various persons before 16.2.2015. Circular dated 16.2.2015 is silent on this aspect. Therefore, this court in Writ Petition No.5163/2018 observed that the State of Maharashtra must decide its further course of action as regards Caste Validity Certificates already granted to different persons on the basis of 2006 letter and subsequent circular.

11. Though learned Assistant Government Pleader for respondents strongly opposed the present petition and relied upon observations of this court in PIL No.102/2013 along with PIL No.11/2016 decided on 15.4.2016 wherein it was observed that, “when Caste Validity Certificate is granted by Caste Scrutiny Committee without having advantage of the Vigilance Report or Vigilance Enquiry, such Caste Validity Certificate may not be of much assistance to Caste Scrutiny Committee and as such the Caste Scrutiny Committee would

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14

not have relied upon these two Caste Validity Certificates. The said argument cannot be accepted for a simple reason that one of Caste Validity Certificates has been issued only after a direction was given by this court and in such cases question of presence/absence of Vigilance Enquiry would never arise.”

12. In the present case, the Caste Validity Certificate was issued to the real brother of the present petitioner on 23.11.2009 i.e. prior to withdrawal of the said Circular issued by the Government of Maharashtra.

13. Similarly, the Caste Certificate was issued to the petitioner on 8.7.2010 i.e. prior to withdrawal of Circular dated 23.3.2011. In fact, the said Circular was withdrawn on 16.2.2015 much after the said Caste Certificate was issued to the petitioner. There is no dispute as far as the amendment to Rule 16(h) of The Maharashtra SC, VJNT, OBC, and SBC (Regulation of Issuance & Verification of) Caste Certificate Rules 2012.

14. Government Resolution dated 24.12.2002 is reproduced for reference as under:

“जाती प्रमाणपत्र मिळण्यासाठी अर्ज करण्या—या प्रत्येक व्यक्तीने तो छप्परबंद जातीचा आहे ह्या मुद्दयाबाबत योग्य तो पुरावा द्यावा. आवश्यक पुराव्याचे स्वरूप काय असावे हे प्रत्येक प्रकरणाच्या वेगवेगळ्या वस्तुस्थितीवर अवलंबून राहील. शासन परिपत्रक, समाजकल्याण, सांस्कृतिक कार्य व क्रीडा विभाग क्रमांक: सीबीसी १४९५/३७८/प्रक.५७/मावक—५, दिनांक ५ जानेवारी १९९९ अन्वये छप्परबंद जातीचे प्रमाणपत्र मिळविण्यासाठी खोटी नाणी तयार करून चलनामध्ये आणण्याचा प्रयत्न करित होत्या ही घातलेली अट या शासन परिपत्रकांन्वये रद्द करण्यात येत आहे.”

In view of that Government Resolution, the petitioner was granted Caste Certificate. Whereas, his real brother was granted Caste Validity Certificate by the said Committee. The certificate shows that the petitioner has been held to be “Chhapparband” (De-notified Tribe). The Caste Validity Certificate is already granted to the real brother of the petitioner. The pre-constitutional document and the document which was prior to cut-off date 21.11.1961 in the names of great grandfather and grandfather recorded as “Fakir.” As the

Caste Validity Certificate already exists in the family of the petitioner and it is necessary to avoid contradictory or anomalous situation arising, we are of view that, in view of judgment of this court in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee** (supra), wherein it is held that where the caste claim of the applicant has been scrutinized and accepted and one Committee has given a finding about validity of the caste, another Committee ought not to refuse the status to his/her blood relatives who applies. It is further held by this court that there is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order.

15. This aspect of granting Caste Validity Certificates to persons belonging to caste “Fakir” or “Chhapparband,” after
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withdrawal of the Circular dated 23.3.2011, is considered by this court in Writ Petition No.5163/2018 decided on 16.10.2019 as well as in Writ Petition No.4575/2023 decided on 19.6.2024 and in Writ Petition No.920/2021 decided on 13.10.2022. In all these petitions, it is held that the Government of Maharashtra has withdrawn the Circular in the year 2015. However, the Government of Maharashtra has not clarified course of action as regards Caste Validity Certificates already granted to different persons on the basis of 2006 letter and subsequent circular. It is observed by this court that one of Caste Validity Certificates has been issued to real brother of the petitioner and, therefore, in view of judgment in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee**, the other family members are also entitled to receive the Caste Validity Certificates. The entry in the name of great grandfather of the petitioner is of pre-independence era, who was recorded as “Fakir” and, thereafter, grandfather is also recorded as “Fakir.” In view of circular

dated Government Resolution dated 24.12.2002, the said Caste Certificate is issued to the petitioner. The Principal Secretary, Department of Social Justice and Special Assistance, Government of Maharashtra has not clarified the stand till 16.2.2015 and, thereafter, on 16.2.2015 the Government of Maharashtra has taken its stand and accordingly has withdrawn circular dated 23.3.2011. However, while doing so, the Government of Maharashtra has also taken its stand regarding Caste Validity Certificates already granted to various persons before 16.2.2015. Government Resolution dated 16.2.2015 is silent on this aspect of the matter. The Government of Maharashtra has not decided its further course of action as regards Caste Validity Certificates already granted to different persons on the basis of 2006 letter and subsequent circular.

16. In the result, as the writ petition deserves to be allowed and order impugned dated 26.10.2020 deserves to be quashed and set aside, following order is passed:

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ORDER

(1) The writ petition is **allowed**.

(2) The order dated 26.10.2020 passed by respondent No.2 – District Caste Verification and Scrutiny Committee, Amravati Division, Amravati is hereby quashed and set aside.

(3) Respondent No.2 – District Caste Verification and Scrutiny Committee, Amravati Division, Amravati is hereby directed to issue Caste Validity Certificate to the petitioner as belonging to caste “Chhapparband Vimukta Jati (A)” (De-notified Tribe) within a period of 6 weeks (six weeks) from the date of receipt of writ of this order.

Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE