

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.122 OF 2002**

Mohammad Ilayas @ Mohd. Raza,
S/o. Shaikh Omer Kirmani,
Age-38 Years, Occu-Social Work,
R/o. DRT-28, Labour Colony,
Aurangabad.

..PETITIONER/S

Versus

1. The State of Maharashtra
2. The Caste Scrutiny Committee
Aurangabad Division, Aurangabad.
3. The Commissioner
Municipal Corporation,
Aurangabad,
Dist. Aurangabad.

..RESPONDENT/S

Mr.A.N.Kakade, Advocate for the petitioner.
Mr.S.K.Kadam, AGP for the respondent/State.
Mr.S.N.Pagare, Advocate for the respondent No.3.

**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.
DATED : 13.07.2015**

ORAL JUDGMENT : [PER: A.V. NIRGUDE, J.]

1. The petitioner challenges judgment and order dated 01.12.2001 passed by the Caste Scrutiny Committee, Aurangabad holding that the petitioner could not prove his caste claim. The petitioner came with a case that he belongs to 'Muslim Momin' caste which is since 1967 treated as one of the Other Backward Classes. The petitioner placed reliance on at least three documents

which originated prior to 1967. In 1950 the petitioner's father obtained school leaving certificate where his religion is mentioned as Muslim and caste as Momin. In 1961 the petitioner's father took up a job in PWD of State of Maharashtra. His service book all around showed his religion and caste as 'Muslim Momin'. The third document on which the petitioner placed reliance is his father's (Nikahanama) marriage certificate. The marriage took place on 05 June, 1961. In this document the caste of the petitioner's father is shown as Momin. All these documents were written prior to 1967 when there was no possibility for taking any advantage of such entry. The Committee rejected these documents by recording its own reasons. We found that the reasons were not only incorrect but are also perverse. The oldest documents which is of 1950 mentioned the petitioner's father's caste as Momin. The photostat copy of school record was produced before the Committee. The Vigilance report indicated that the original record did not indicate any overwriting etc. Despite this, by perusing the photostat copy of the register the committee came to its own conclusion that this could be the case of interpolation. We are afraid such conclusion is figment of the learned members imagination. They could not have decided the genuineness of this entry because they did not see original record at all. We place reliance on judgment of

Supreme Court in the case of Sayanna V/s. State of Maharashtra & others 2010(1) All M.R. 957 for this conclusion. Even the entry in service book is rejected on mostly presumption that this entry could have been taken subsequently. The Committee also rejected the marriage certificate on the ground that word Momin was written in different ink. The Vigilance Cell's collected information that the petitioner's family's traditional trade was 'Weaving'. Most of the relatives of the petitioner are still 'weavers' in Paithan and other places. We are convinced that the impugned judgment suffers from not only inaccuracy but non-application of mind.

2. The petition succeeds. Rule is granted in terms of prayer Clause (B) and made absolute accordingly.

3. In view of this the petition stands disposed of. No costs.

4. In addition to this the committee is directed to issue validity certificate to the petitioner within three months from today.

[A.M. BADAR,J.]

[A.V. NIRGUDE,J.]