

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 6003 of 2015

Smt. Khajabi Umar Saheb / Qureshi,
Age : 72 years,
Occupation : Household,
R/o. House No. 1919, Bepari Mohalla,
Near Taluka Police Station, Ahmednagar.

.. Petitioner.

versus

1. The State of Maharashtra,
Through Social Justice and Special
Assistance Department,
Mantralaya, Mumbai - 32.
2. The Caste Certificates Scrutiny Committee,
Nashik Division, Nashik, Committee No.1,
Nashik, Through Its Member Secretary.
3. Smt. Varsha Arif Sayyed,
Age : 32 years,
Occupation : Household,
R/o. Plot No.204, D-Wing,
Krushna Enclave,
Aurangabad Road, D.S.P. Chowk,
Ahmednagar.

.. Respondents.

.....

*Mr. V.J. Dixit, Senior Advocate, with
Mr. N.V. Gaware, Advocate, for the petitioner.*

*Mr. D.V. Tele, Assistant Government Pleader, for
respondent nos.1 and 2.*

*Mr. Mahesh S. Deshmukh, Advocate, holding for
Mr. R.R. Karpe, Advocate, for respondent no.3.*

.....

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

DATE : 8TH JULY 2015

ORAL JUDGMENT (*Per A.V. Nirgude, J.*) :

1. Heard learned Counsel for respective parties.
2. Rule. Rule made returnable forthwith. By consent of all the parties, the petition is taken up for final hearing.
3. This petition challenges judgment and order of Divisional Castes Certificate Verification Committee No.1, Nashik Division, Nashik, dated 6th June 2015, invalidating caste claim of the petitioner as belonging to '*Muslim Kasab*', which is notified as Other Backward Class. The Committee also directed to put up a separate proposal before it, against the petitioner, as she had secured the caste certificate by producing forged documents.
4. The petitioner succeeded in election to Municipal Corporation of Ahmednagar in 2013. The respondent no.3 made a complaint to this Court, by filing a Writ Petition earlier, challenging the petitioner's caste validation certificate. This Court remanded the case back to the Committee for re-consideration. This time, the Committee held that the petitioner was not only guilty of producing false documents on record, but she had also failed to prove her case.

5. The petitioner claimed that she belonged to 'Kasab' or 'Muslim Kasab' which is a caste in the category of Other Backward Class. In order to support her case, she produced various documents on record. There are three kinds of documents on record, namely, [1] extracts of revenue record, [2] extracts of birth and death register, and [3] school leaving certificate. The petitioner placed reliance on her father's school leaving certificate. It is her case, that her father in 1918, left primary school in 2nd Standard when his caste was mentioned as 'Muslim Khatik'. On verification of the record of the school, it was found that such certificate could not have been issued because the record of 1918 was not available with the school. It is, therefore, clear that the record was not available when the Vigilance Cell Officer visited the school in 2014. On the other hand, the petitioner apparently obtained this certificate recently when her caste claim was questioned. We have reason to believe, that this document was procured by the petitioner recently and if the petitioner visited the school recently and if at that time, the record was available, the petitioner must come out with a clear statement on oath, that she or her representative had gone to the school on a particular date and had obtained this certificate from a particular person. With such statement, she was also under obligation to produce the original document since she or her representative procured. The petitioner avoided to submit such statement on affidavit and to produce the original document. The Committee, therefore, rightly came to the conclusion that the document is a forgery.

6. The other document on which petitioner placed reliance is, extract of birth register of 1948. The certificate mentioned certain name which does not appear to be connected to the petitioner's family. This certificate is relating to one person, by name, Umbar Aambir. The

petitioner's father's name was Umar Aamir. So, this certificate probably was produced before the Committee due to inadvertence. So, the petitioner could not have placed reliance on this document, at all, as it is not relating to her.

7. There are few other documents of old origin where the last name of the petitioner's predecessors was mentioned as 'Kasab', 'Gaikasai', etc. These documents are required to be appreciated dispassionately.

8. On perusal of the judgment, in question, we found that the Committee did not dispassionately scrutinize and appreciate the evidence on record. It appears very clearly, since false documents were filed, they tended to reject the entire case. It is necessary, in such situation, to bring to the notice of the Committee, their duties as per Section 9 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes And Special Backward Category (Regulation Of Issuance And Verification Of) Caste Certificate Act, 2000 [**For short, hereinafter referred to as "Act of 2000"**]. Section 9 reads as under :-

" Civil Court powers to Competent Authority, Appellate Authority, and Scrutiny Committee – The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any

person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any Court or office; and

(e) issuing Commissions for the examination of witnesses or documents.”

The heading of the Section itself indicates that the Committee is given Civil Court's powers. A Civil Court would scrutinize all the documents dispassionately, come to its conclusion as to the genuineness of the documents, the probative value of documents which are found admissible in evidence and then decide the case on probability.

9. The judgment indicates that the Committee lost the balance because of one grave circumstance, which was production of patently forged documents. It allowed itself to be affected by such circumstance.

10. We do not want to express our view and we do not want to appreciate the evidence that came before the Committee, save and except the opinion we expressed in respect of two documents referred to above, namely, school leaving certificate of father of the petitioner and birth and death register of village Tisgaon [Taluka : Pathardi], dated 7-8-1948. The Committee should have appreciated other documents which are not forged and are admissible in evidence, independently.

11. In that view of the matter, we deem it necessary to set aside

the judgment and order of the Scrutiny Committee and remand the case back to the Committee, with a request to appreciate case of the petitioner on the basis of documents which are found admissible in evidence. We are, however, not interfering in the Committee's discretion to initiate criminal action against the petitioner, in respect of forged documents.

12. In the result, the petition is partly allowed.

The judgment and order dated 6th June 2015, passed by the Divisional Castes Certificate Verification Committee No.1, Nashik Division, Nashik, dated 6th June 2015, i.e. Exhibit "G", is quashed and set aside. The case is remanded back to the Committee. The Committee shall not consider the above referred two documents while appreciating the evidence produced by the petitioner. The petitioner is given fresh opportunity to lead evidence in the case. The Committee's discretion, to proceed against the petitioner for filing forged documents, is kept intact. The caste claim of the petitioner shall be decided by the Committee as expeditiously as possible and preferably by the end of January 2016.

13. Rule is made absolute in the above terms. In the circumstances of the case, there shall be no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

.....