

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

WRIT PETITION NO. 6603 OF 2016

Morve Mohamed Akbar Anwar

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. P.S. Chavan, Advocate for petitioner.

Mr. M.B. Bharaswadkar, A.G.P. for Respondent Nos.1 and 2.

Respondent Nos.3 and 4 though served, are absent.

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**CORAM : R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATED : 27th JULY, 2016

ORDER :

1. Heard.

2. Rule. Petition is taken up for final hearing with the consent of the parties.

3. The petitioner is objecting to the order passed by the scrutiny committee directing invalidation of his caste certificate certifying that he belongs to 'Julah' caste, which is included in Other Backward Class category. The petitioner on the basis of the caste certificate issued to him was admitted to the First Year engineering course conducted by Respondent No.3 – College during the academic year 2014-15. The petitioner contends that he has

cleared the First Year engineering course and also appeared for Second Term of Second Year engineering course. However, as a result of failure of the petitioner to produce validation certificate, the college has directed cancellation of petitioner's admission and the university has also refused to declare the result of the petitioner for the Fourth Semester i.e. Second Year engineering course.

4. The petitioner contends that the decision of the Scrutiny Committee is erroneous for the reason that the Scrutiny Committee has not properly appreciated the report of the Vigilance Cell. During the Vigilance Cell enquiry, it has transpired that the petitioner belongs to 'Julah' caste and the Vigilance Officer has also reported accordingly to the committee. In normal course, the committee ought to have accepted the report of the Vigilance Cell and ought to have directed the validation of caste certificate, however, the claim of the petitioner has been rejected merely on the ground that the documentary evidence produced by him is of recent origin. The petitioner contends that he came across old document i.e. sale deed executed in between Alisab Laldesab Morve and Khudabaksh Buwaji Beskar which was also produced before Scrutiny Committee. The petitioner contends that Alisab Laldesab Morve is his great-great grandfather and his caste 'Momin' is recorded in the sale deed executed in 1312 Fasli equivalent to 1902. The

petitioner contends that he is a student and his educational carrier is at stake and as such an opportunity needs to be extended to substantiate his claim.

5. The petitioner contends that though the documents have been placed on record before the Scrutiny Committee, same have not been considered in proper perspective. The committee shall verify the documents by directing the Vigilance Cell to verify its authenticity and report the committee accordingly. It would also be open for the Scrutiny Committee to verify the relationship of the petitioner with the executor of the document. It appears that the Scrutiny Committee has not considered the whole evidence i.e. the certified copy, which is placed on record before the committee.

6. A reasonable request made by the petitioner deserves to be accepted. In view of it, the petitioner needs to be extended an opportunity to place additional evidence before the scrutiny committee.

7. For the aforesaid reasons, the decision rendered by the Scrutiny Committee on 13.05.2016 directing invalidation of caste certificate of the petitioner is quashed and set aside and the matter stands remitted back to the Scrutiny Committee for taking fresh decision by extending further opportunity to the petitioner to substantiate his claim. The petitioner shall cause his appearance before the Scrutiny Committee on 10.08.2016 so that

the notice requiring presence of the petitioner before the Scrutiny Committee stands dispensed with. The Scrutiny Committee shall take a decision in the matter after extending opportunity of hearing to the petitioner to substantiate his claim by producing additional evidence if deems it appropriate and in consonance of the directions issued by this Court, as expeditiously as possibly and preferably within a period of eight months from today.

8. In spite of notice, Respondent No.3 – College has not caused appearance in the matter. The decision of the Respondent No.3 – College of cancellation of admission of the petitioner for engineering course is quashed and set aside and the Respondent No.3 – College is directed to admit the petitioner for next year engineering course if he is found otherwise eligible. Respondent No.4 – University though served, has not caused appearance in the matter. Respondent No.4 – University is directed to declare the result of the petitioner of Fourth Semester i.e. Second Year engineering course forthwith.

9. Rule made absolute.

(A.I.S. CHEEMA, J.)

(R.M. BORDE, J.)

SSD