

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11951 OF 2015**

Mukeri Rukaiyya Rafik & Anr.	...Petitioners
<i>Versus</i>	
The Divisional Caste Certificate Scrutiny Committee & Anr.	...Respondents

Mr. Santaram A. Tarale, *for the Petitioners.*
Ms. Sushma S. Bhende, AGP, *for Respondents Nos. 1 and 2.*

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 4th March 2016

PC:- (per G.S. Patel, J.)

1. We have heard Mr. Tarale, learned Advocate appearing for the Petitioners, and Ms. Bhende, learned AGP for appearing for Respondents Nos. 1 and 2.

2. The two Petitioners, both students, aged 19 and 23 respectively, challenge the Judgment and Order dated 29th June 2015 of the 1st Respondent, the Divisional Caste Certificate Scrutiny Committee No. 1, Solapur (“**the Committee**”). By this order, the 1st Respondent has declared that the Petitioners do not belong to the Nomadic Tribe at Sr.No. 36, i.e., Muslim Gavli.

3. We have, with the assistance of the leaned Advocates, perused the Petition and its annexures. Ms. Bhende also made available to us the record that was before the 1st Respondent, Committee. We find that the Committee, the 1st Respondent, considered, *inter alia*, the genealogy or family tree that was produced by the Petitioners. A copy of this is at page 51 of the Petition. We also find this in the original record. On the face of it, this family tree does not establish that the two Petitioners are the first paternal cousins of one Asif and one Rizwan to whom caste validity certificates were issued, and on the strength of which the Petitioners claim to be entitled to validation of their own caste certificates. We are, therefore, unable to find any infirmity on the face of the record in the order of the Caste Scrutiny Committee when it comes to the conclusion that this family tree does not conclusively establish the Petitioners' genealogy.

4. The submission made on behalf of the Petitioner before us today is that the two Petitioners are two of four children of one Rafik. Rafik's brother Salim himself had three children. Of these three children, two had obtained Caste Validity Certificates, namely, Asif and Rizwan. It is submitted that these two persons are, therefore, the paternal first cousins of the two Petitioners. As we have noted, the family tree itself does not bear out this kinship.

5. We are, however, mindful of the fact that both Petitioners are pursuing their educational careers. It should not be that only on account of inadequate or insufficient representation before the Committee, the genuine case of the Petitioners, if any, came to be rejected. We are also mindful of the fact that the Committee does

not seem to have statutory powers to recall its own orders or to review them.

6. However, in the facts and circumstances of this particular case, we are inclined to request the 1st Respondent Committee to reconsider the Petitioners' application and to give the Petitioners one further opportunity to establish the correctness of the genealogy in support of their claim for validation of their caste certificates.

7. The Petitioners shall appear before the 1st Respondent Committee on 16th March 2016 when the 1st Respondent Committee will fix a date for further hearing at its earliest possible convenience. The Caste Scrutiny Committee is requested to dispose of the matter on such reconsideration by 10th June 2016.

8. The Petition is disposed of in these terms.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)