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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2354 OF 2017

Changez Jamal Multani Petitioner
V/s
The State of Maharashtra & Others Respondents.

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Mr. Anil Anturkar, Senior Counsel along with Mr. Surel Shah and
Mr. Pramod Kathane and Ms. Priyanka Varavdekar for the Petitioner.

Ms. Geeta Shastri, Addl. Government Pleader for the State for the
Respondent Nos. 1, 2, 3 and 5.

Ms. Geeta Jogalekar for the Respondent No.4.

Mr. C.K. Bhagonji I/by Mr. R.K. Mendhadkar for the Respondent
No.11.

Mr. Shailesh Kharat along with Naveen Kumar for the Respondent
No.2.

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**CORAM : B. R. GAVAI AND
M.S.KARNIK, JJ.**

DATE : 23rd August, 2017.

ORDER (PER M.S. KARNIK, J.) :-

The challenge in this petition is to an order dated 19th
August, 2017 passed by the Respondent No.5 – District Caste
Certificate Scrutiny Committee, Mumbai, thereby invalidating the

caste certificate dated 31st October, 2015 issued by the Respondent No.3 in favour of the petitioner as belonging to the Pinjara caste which is recognised as Other Backward Class.

2. The petitioner professes “Islam” religion and governed by Muslim Law. The vocation of his forefathers was spinning of cotton and doing allied activities such as making cotton quilt, pillows, load, etc.. for a livelihood. By a Government Resolution dated 13/10/1967, Government of India recognized the community known as Pinjara Community situated in the State of Maharashtra as Other Backward Class at Serial No.177 in the said list. On 19/10/1995, the Government of Maharashtra issued a Government Resolution giving information about the Muslim Community and in the said annexure to the Government Resolution the petitioner's community is mentioned at Serial No.4 mainly having the vocation of spinning cotton and making cotton quilt. It is the petitioner's case that since his forefathers are residents of State of Maharashtra prior to 1967, the petitioner is entitled to the caste certificate of Other Backward Class as belonging to the Pinjara Community.

3. The petitioner was issued a caste certificate dated

31/10/2015 by the Competent Authority – Respondent No.3. In the general election of the year 2017 for the Mumbai Municipal Corporation the petitioner contested from Ward No.62. The said Ward was reserved for a candidate belonging to Backward Class. The petitioner contested and won the election from the said Ward. The petitioner's caste certificate was sent for verification to the Respondent No.5 – Caste Certificate Scrutiny Committee for verification of his caste claim. The Vigilance Cell conducted the inquiry and after verification submitted the report dated 6/6/2017. As the Committee was not satisfied with the Vigilance Cell report, the petitioner was called to attend the hearing on 21/6/2017 along with all necessary documents in support of his caste claim. The Committee on a prima facie opinion that there is difference in the name of the father of the petitioner in the original record and the certificate issued on the basis of the original record felt it necessary to hear the petitioner further. Respondent Nos.6 to 13- Complainants filed certain documents before Respondent No.5 which documents were sent to the Vigilance Cell for inquiry. The petitioner also submitted additional documents in support of his caste claim. For the reasons recorded in the impugned order the Respondent No.5- Committee invalidated the caste claim of the petitioner.

4. Learned Senior Counsel for the petitioner invited our attention to the order passed by the Scrutiny Committee and also to the documents relied upon by the petitioner in support of his caste claim. Learned Senior Counsel contended that the Committee failed to properly consider the Vigilance Cell Report in its entirety. The Vigilance Cell Officer has found the mention of the caste “Musalman Pinjara” in the school leaving certificate of the father of the petitioner Mr. Jamal Dawood Multani. The Shop and Establishment License reveals the word “Pinjara” in the title of business. In the rent receipt the name of the petitioner's uncle is mentioned as Ismail Dawood Pinjara. According to the learned Senior Counsel, the documents would reveal that the petitioner is born out of the wedlock between Jamal Dawood Multani and Najmunnissa Jamla Multani and they are not aware as to how the name Mehmud Yusuf Pathan is mentioned as petitioner's father in the birth certificate of the petitioner. Learned Senior Counsel contended that except the birth certificate of the petitioner all the documents relied upon by the petitioner indicates the name of the father of the petitioner as Jamal Dawood Multani. Learned Senior Counsel heavily relied upon the “Nikahnama” of the year 1965 between Najmunnissa and Jamal

Dawood Multani which was a document of more than 50 years old having great evidentiary value. According to the learned Senior Counsel, respondent Nos. 6 to 13 could produce only birth certificate of the petitioner (where the name of the father is wrongly mentioned) and have failed to produce any document indicating any relationship of the petitioner or his mother with the said Mehman Yusuf Pathan.

5. Learned AGP on behalf of the respondent Nos.1,2,3 and 5 supported the order passed by the Scrutiny Committee. Learned Counsel for the respondent No.12 invited our attention to the birth certificate dated 18/7/2017 of the petitioner indicating that the petitioner's father's name is recorded as "Mr. Mehmud Yusuf Pathan". He has relied upon the certain documents which he has obtained under Right to Information Act in the nature of internal inquiry conducted by the Respondent- Municipal Corporation in support of the change of petitioner's father's name in the birth certificate dated 21/7/2008 recording the petitioner's father's name as Mr. Jamal Multani. It has been concluded that the said extract is bogus. Though in the original extract of birth record petitioner's father's name is Mehmud Yusuf Pathan but in the certificate which is issued the

father's name is changed to Mr. Jamal Multani. The entry accordingly has been corrected and now the correct certificate as per the original extract of the birth record has been issued which indicates the petitioner's father's name as “Mr. Mehmud Yusuf Pathan”.

6. We have considered the submissions advanced by the learned Counsel. We have also gone through the record and the impugned order passed by the Scrutiny Committee. The Committee has taken into consideration the birth certificate of the applicant dated 21/10/2015 wherein the date of birth is shown as 2/10/1966. Registration number of the said birth certificate is mentioned as 10144. The Vigilance Cell in its report has noted that in respect of the birth register maintained with the K/West Ward from Serial No.10137 to 10155 there are various erasures and entries are scratched and even the register is found to be in torn condition at the place where the name of the father and address is to be mentioned. It was also revealed that in support of the said birth certificate the original extracts are maintained at Gaurabai Hospital, Kamathipura. The original record of the birth extract revealed that the father's name is shown as Mehmud Yusuf Pathan and mother's name is shown as Najmunnissa and father's occupation is shown as business and the

religion indicated as Muslim. Even in the District Registrar's Register entry No.10153 is erased and interpolated with entry with 10144. The record indicates that there is difference in the name of petitioner's father in the original birth extract and the birth certificate which has been issued subsequently by the authorities. Internal Inquiry conducted by the Mumbai Municipal Corporation revealed that the birth certificate issued to the petitioner is not in conformity with the entries in the original record of the birth extracts and it is thus apparent that at some stage the name of the petitioner's father has been changed as Mr. Jamal Multani and a birth certificate is issued accordingly. It is also found as a matter of fact that the original records of the birth extract records petitioner's father name as Mehmud Yusuf Pathan.

7. Even in respect of the school leaving certificate of the petitioner's father in the original records of the school viz. General Register the entry at Serial No.511 is shown as Amrutlal Dhirajlal Zala whereas in the new general register the entry at Serial No.511 mentions the name as Jamal Dawood Multani. The Committee has observed that though in the new register the entry at serial no.511 indicates the name as Jamal Dawood Multani, the representative of

the school was not in a position to indicate as to how entry at Serial No.511 underwent the change and what procedure was followed in that regard. The Committee has recorded a finding of fact that the petitioner has by illegal means entered the name of his father as Jamal Dawood Multani when the original records indicates otherwise. We have also perused the report of the internal inquiry conducted by the Mumbai Municipal Corporation which has been tendered by the learned Counsel for the respondent no.12. In this view of the matter we are not inclined to interfere with the order passed by the Scrutiny Committee invalidating caste claim of the petitioner.

8. The Scrutiny Committee has based its findings on the materials on record and we do not find any perversity in the view taken by the Scrutiny Committee invalidating the caste claim of the petitioner. In this view of the matter we do not find any merit in this petition and the same is therefore dismissed with no order as to costs.

(M.S. KARNIK, J.)

(B.R.GAVAI, J.)