

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1444 OF 2015

Shri Layakalli Bashaso Mulla ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

Mr. C. K. Bangoji a/w Mr. Hamid D. Mulla for Petitioner.
Mr. M. M. Pabale, AGP for Respondent – State.

**CORAM : SHANTANU S. KEMKAR AND
NITIN W. SAMBRE, JJ.**

DATE : JUNE 4, 2018

P.C.

. The Petitioner claims that he belongs to 'Muslim Kasab' community, which is under Other Backward Class category. According to him, his Caste Validity claim has wrongly been rejected by the impugned order dated 20th September, 2014 (Exhibit – A) passed by the Respondent No.2 – Divisional Caste Certificate Scrutiny Committee No.1, Solapur.

2. It is the case of the Petitioner that his two cousin brothers namely, Amin s/o Imamsa Mulla and Mohsin Nasir Mulla have been granted the Caste Validity Certificate by the Caste Scrutiny Committee, but the same has been denied to the Petitioner on the ground that Petitioner

has failed to prove the blood relationship from paternal side in regard to the aforesaid two cousin brothers.

3. According to the learned Counsel for the Petitioner, in view of the law laid down by the Division Bench of this Court in the case of *Apoorva Vinay Nichale V/s Divisional Caste Certificate Scrutiny Committee and others*¹ the Caste Scrutiny Committee ought to have granted the Petitioner the Caste Validity Certificate.

4. On the other hand, the learned AGP has argued that as the Petitioner having failed to prove the blood relationship from paternal side with his cousin brothers to whom the Caste Validity Certificate is issued, the caste Scrutiny Committee has rightly rejected the Petitioner's claim.

5. Having considered the submission of the learned Counsel of the parties and having gone through the impugned order, we are of the view that the Caste scrutiny Committee has failed to give appropriate reason for discarding the Certificate issued to the Petitioner's alleged cousin brothers from paternal side. In the impugned order a reference has been made about one of the Petitioner's cousin brother is being granted Caste Validity Certificate but as to why that has not been given weightage has not been reasoned out in the impugned order. In the circumstances, in the interest of justice, we feel that the matter requires to be remitted back to

1 2010(6) Mh.L.J.401

the Caste Scrutiny Committee for taking a fresh decision in the matter after giving due opportunity to the Petitioner for filing appropriate affidavit with supporting documents to show that said Amin s/o Imamsa Mulla and Mohsin Nasir Mulla are his cousin brothers from paternal side.

6. While taking the decision, the Caste Scrutiny Committee shall consider the law laid down by the Division Bench of this Court in the case of Apoorva Vinay Nichale (*cited supra*). Let the decision as aforesaid be taken by the Committee within four months from the receipt of the copy of this order.

7. With the above directions, Writ Petition is disposed of.

8. The Petitioner to appear before the Caste Scrutiny Committee on 19th June 2018 at 11.00 a.m.

9. Interim order passed earlier shall continue till the matter is decided afresh by the Caste Scrutiny Committee.

10. We also make it clear that if the Affidavit has already filed by the Petitioner, same shall also be considered in addition to the affidavit as may be filed by the Petitioner.

11. Parties to act on the authenticated copy of this order.

(NITIN W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)