

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

30 WRIT PETITION NO.6213 OF 2019

SALIKHUDDIN JIYAUDDIN CHISHTI ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. S. S. Thombre, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 04th JUNE, 2019.

PER COURT:-

1. The respondent no.3 has been issued validity certificate of Momin caste. The petitioner has challenged the validity certificate in present petition.

2. Mr. Thombre, learned counsel for the petitioner submits that respondent no.3 has obtained validity certificate by fraud and by relying on the forged documents. The respondent no.3 does not belong to Momin caste. The petitioner is Mutawalli of the Dargah and belongs to Momin caste, as such, has locus standi to challenge the validity issued in favour of respondent no.3.

3. The learned counsel submits that the documents filed by the petitioner were not considered by the Committee in their correct perspective. The petitioner and respondent no.3 are residents of Khultabad and as such, the petitioner is aware about the caste of respondent no.3 and that he does not belong to Momin caste. The respondent no.3 by submitting false and bogus documents has obtained the certificate. The petitioner has filed application dated 16.02.2019 to the Committee bringing on record the correct facts. The documents were filed by the petitioner and the other person namely Mohd. Naim Mohd. Baksh about the school records submitted by respondent no.3 before the committee. In fact, the caste mentioned in the school record is Musalman and not Momin. Even the birth certificate produced by respondent no.3 was forged document. The petitioner got the knowledge as one Mohd. Naim Mohd. Baksh had filed an application to the Municipal Corporation, Aurangabad and wherein the Municipal Corporation, Aurangabad issued a letter stating that no such certificate was issued by Municipal Corporation. All the documents were counter checked by the petitioner and all these facts were brought to the notice of the respondent-Committee. The learned counsel submits that in fact initially the validity certificate was issued in the year 1997. The same was in favour of respondent no.3. The same was set aside by this

Court and thereafter, the fresh validity certificate was issued in the year 2010.

4. We have heard Mr. Karlekar, learned A.G.P. for respondent nos.1 and 2.

5. The petitioner cannot be said to have any personal interest. The caste validity issued in favour of the petitioner was assailed by one of the person claiming to be interested. The matter was remitted back by setting aside the validity as contended by the petitioner and again the same has been validated in the year 2010. The scrutiny has been conducted by the Committee twice. It appears that, one Akbar Baig Hasan Baig and Muniboddin Mujiboddin had filed Writ Petition no.5838/2007 and the same was disposed of on 07.01.2009 setting aside the order of the Scrutiny Committee and thereafter, the Court directed the Committee to make fresh enquiry and decide the claim afresh. Thereafter claim is decided afresh by the Committee and validity is again issued in favour of respondent no.3. We cannot direct the Committee to make enquiry again and again in the same matter. Similar enquiry was directed to be made by the Court in earlier petition filed by another petitioner. Pursuant thereto the fresh enquiry has been conducted by the Committee and again validity is issued in the year 2010. The same is now assailed in the year 2019 by a person who does not

have direct interest in the matter. Reference can be had to the judgment of the Apex Court in case of **Ayaaubkhan Noorkhan Pathan vs State Of Maharashtra & Ors** reported in **(2013) 4 SCC 465**.

6. In light of the above, writ petition is disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/June-19