

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

35 WRIT PETITION NO.14136 OF 2018

SHAIKH SHABBIR SHAIKH HABIB
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner :Mr. Syed Azizoddin R.
AGP for Respondents State: Mr. S. P. Tiwari
Advocate for Respondents No.5 : Mr. S.N.Boiwar h/for
Mr. S.N. Pagare

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 28th March, 2019

PER COURT :

1. Father of the petitioner was working as Safai Kamgar. Upon his his retirement, the petitioner moved an application for appointment as per G.R. dated 10.11.2015. Proposal was forwarded by respondent No.5 to respondent Nos. 2 and 4. The proposal is rejected by the respondents on the ground that the petitioner does not belong to the caste enumerated in the Government Resolution. It is submitted that the caste certificate is issued to the petitioner of Muslim Bhangi, which was included as Scheduled Tribe up to 2008 and as per notification dated 25th August, 2008, the same is included in Special Backward Class (SBC). In view that, certificate of S.B.C. is also issued

subsequently to the petitioner.

2. Muslim is religion. The same cannot be relevant consideration. The respondents ought to have seen as to whether the petitioner belongs to Bhangi. The persons belonging to Walmiki, Mehatar, S.C., S.T. are held eligible under the said G.R. The same was only required to be considered.

3. In the light of above, the impugned communications are quashed and set aside.

4. The respondents shall, within a period of two months, consider the case of the petitioner and decide the proposal referred to it for appointment as Safai Kamgar, afresh.

5. Writ petition is accordingly disposed of. No costs.

(A. M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

JPC