

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4814 OF 2018

Sudam Kisan Gund

...Petitioner

vs.

Santosh Dnyanoba Gund and Ors.

...Respondents

Mr.Sachin R. Pawar for the Petitioner.

Mr.Vaibhav V. Ugle for the Respondent No.1.

Mr. Atul Vanarse, AGP for the Respondent Nos.3,4 and 5/State.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.**

DATE : 14/08/2019.

P.C.:

. The petitioner claims that respondent No.1 has forged documents to establish relationship with his forefathers and on that basis has succeeded in obtaining caste validity as Kunbi (OBC).

2. Learned counsel for respondent No.1 relies upon judgment of Hon'ble Apex Court reported at *Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and Ors., (2013) 4 SCC 465* to urge that the petitioner has no locus to challenge validity given to respondent No.1.

3. Learned counsel for the petitioner states that the petitioner has not challenged validity as such and basic challenge is to claim of relationship with the family of the petitioner. Our attention is invited to the fact that the Scrutiny Committee has not properly appreciated the dispute.

4. After hearing respective counsel and in the backdrop and law laid down by Hon'ble Apex Court in *Ayaaubkhan's case (supra)*, we find that the petitioner has attempted to seek a declaration that Respondent No.1 is not his relative.

5. The Scrutiny Committee cannot examine such grievance. Not only this in the writ petition also it is difficult to record any finding on this question. We find that facts can be ascertained very conveniently in Civil Court. Hence, keeping all contentions of the petitioner open, we grant the petitioner leave to file a Civil Suit for appropriate declaration. With this liberty we dispose of the petition.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)