

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

WRIT PETITION NO.9628 OF 2014

Anees Khaleel Momin .. Petitioner.
Vs.
Shakeel Mustaqeem & Others .. Respondents.

Mr.F.N. Momin with Mr.Gautam J. Jain for the Petitioner.
Mr.P.K. Dhakepalkar, Senior Advocate with Mr.Dilip B. Shinde for the
Respondent No.1.
Mrs.K.R.Kulkarni AGP for the Respondent Nos.2 and 3 – State.

**CORAM : S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED : 11TH MARCH, 2019

P.C. :

1. Heard learned Advocate for the parties.
2. Perused the order under challenge. The Petitioner is the original complainant and who alleges that Respondent No.1 has been wrongfully and illegally issued the caste validity certificate by accepting his claim that he belongs to 'Julaha' - other backward class.
3. It is argued before us that the fact that a certificate of caste validity has been issued to the sister of Respondent No.1 and his cousin from paternal side, does not mean that the Petitioner's claim has to be accepted and in toto. Our attention is invited to several documents which according to the counsel for the Petitioner were placed on the record of the Scrutiny Committee. The Scrutiny Committee had not considered probative value of the documents and particularly in the case of the Petitioner, who was admittedly born after 13th October,

1967. The proof of residence before this date has to be brought on record. Hence, the impugned order is vitiated in law.

4. We are unable to accept this contention for more than one reason. The order under challenge will have to be read in its entirety, so read, it refers to the statement of one Mohammad Yusuf Momin, resident of Bhiwandi Viewers Society, Bhiwandi and Ex-Member of All India Power Loom Board. He has deposed before the Scrutiny Committee on oath that the Petitioner's family is residing in that area and is carrying on business of power loom. The brother of the Petitioner was born on 26th February, 1962 and it has been stated that the Petitioner's family is residing in Maharashtra prior to cut-off date. This version is unchallenged.

5. In the circumstances, the other documents enabled the Scrutiny Committee to rely upon the certificate of validity issued to the members in the family. These certificates, therefore, had great probative value. We are of the opinion that the order of the Scrutiny Committee, assigning reasons and particularly paragraphs 2 to 4 cannot be held to be perverse and there is no illegality apparent on the face of the record. Once we reach this conclusion, there is no merit in the writ petition. It is dismissed. There will be no order as to the costs.

(B.P.COLABAWALLA,J.)

(S.C. DHARMADHIKARI,J.)