

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11982 of 2019**

Yunus Bhudhan MulaniPetitioner
versus
The State of Maharashtra and ors.Respondents

Mr. Vaibhav R. Gaikwad, advocate for the petitioner.
Ms. R. M. Shinde, AGP for the State.

**CORAM : RANJIT MORE &
M. S. KARNIK, JJ.**

DATE : 28^h NOVEMBER, 2019.

P. C. :

Heard learned counsel for the petitioner and learned AGP for the state.

2. The petitioner is challenging the judgment and order dated 30th July, 2019, passed by respondent No.4- District Caste Scrutiny Committee. The petitioner is also seeking further directions to respondent No.4 to decide his caste claim afresh in accordance with law.

3. Earlier, the petitioner claimed belonging to Kasai caste (OBC) and obtained caste certificate from the competent authority. On the basis of this caste certificate, the petitioner secured employment as constable with respondent No.5. The petitioner's caste certificate was thereafter referred by respondent No.5 to respondent No.4-District Caste Certificate

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Scrutiny Committee. It was held that the petitioner could not prove that he belonged to Kasai-Caste. Accordingly, petitioner's caste claim that he belonged to Kasai Caste was invalidated and his caste certificate was confiscated.

4. Pending proceedings before respondent No.4-Committee, the petitioner's cousin brother – Shri Mahamad Najaruddin Mulani obtained caste certificate dated 20th October, 2016, as belonging to Mulani (OBC) caste. The caste certificate of the petitioner's brother was scrutinized by respondent No.4 itself and the petitioner's brother's claim was upheld and, accordingly, caste validity certificate was granted to him as belonging to Mulani (OBC) caste.

5. It is the contention of the petitioner that the caste – Kasai was included in the OBC List in the year 1995. Mulani (OBC) caste was, however, included in the OBC List in the year 2006. The petitioner contends that the caste- Kasai and Mulani more or less are same. When the petitioner learnt that his cousin brother obtained caste certificate that he belongs to Mulani (OBC) Caste and the same is validated by respondent No.4, he also applied for fresh caste certificate to Sub-Divisional Officer-Jat and the Sub-Divisional Officer-Jat on 28th August, 2019, granted caste certificate to the petitioner as belonging to Mulani (OBC) caste.

6. In the light of the above, the petitioner, as a matter of fact, has no grievance about the impugned judgment and order, under which, his claim as belonging to Kasai caste is not accepted. The prayer of the petitioner is that his fresh caste certificate as belonging to Mulani (OBC) caste may be directed to be scrutinized by respondent No.4 since his cousin brother has been granted caste validity certificate as belonging to Mulani (OBC) caste. In the interest of justice, we are inclined to accept the petitioner's prayer.

7. We, accordingly, dispose of the petition by passing the following order:

- (1) The petitioner shall submit his certificate claiming to be belonging to Mulani (OBC) caste in the Office of Respondent No.5- Commissioner of Police, Thane, within a period of two weeks from today.
- (2) The Office of respondent No.5, thereafter, shall refer the said caste claim of the petitioner to respondent No.4 for scrutiny within a period of four weeks from the date of receipt of the said caste certificate.
- (3) Thereafter, Respondent No.4 shall scrutinize the petitioner's caste claim as belonging to Mulani (OBC) caste and pass appropriate order within a period of one year from the date of receipt of such

request from the Office of respondent No.5 in respect of the petitioner's caste claim.

(4) Respondent No.4 shall decide the petitioner's caste claim as belonging to Mulani (OBC) caste independently on its own merits and without being influenced by the impugned order, under which, his caste claim that he belonged to Kasai-caste was rejected.

(5) Respondent No.4 shall communicate the said order to the petitioner as well as respondent No.5.

8. Till decision of respondent No.4 regarding petitioner's caste claim as belonging to Mulani (OBC) caste, no coercive action shall be taken against the petitioner by respondent No.5 on the ground that caste validity certificate is not submitted.

9. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[M. S. KARNIK, J.]

[RANJIT MORE, J.]