

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

WRIT PETITION NO.3429 OF 2021

Qureshi Mohammad Kaif Israr

..Petitioner

V/s.

District Caste Certification Verification
Committee and Anr.

..Respondents

Mr. Saurabh Oka for the Petitioner.

Mrs. S. S. Bhende AGP for the Respondent-State

**CORAM : SUNIL B. SHUKRE AND
G. A. SANAP, JJ.**

DATE : 10 MARCH 2022.

P. C.

Heard. Rule. Rule made returnable forthwith by consent of the parties.

2. The impugned order is premised on two grounds viz., there is no evidence produced on record by the Petitioner showing that his grandfather was residing in Mumbai on or before the relevant date i.e. 13/10/1967 and report of the vigilance inquiry officer was not favourable and that there was no sufficient proof available on record which supported the claim of the Petitioner as he belonging to "Qureshi OBC caste".

3. Learned counsel for the Petitioner submits that the name of the grandfather of the Petitioner had appeared in electoral rolls,

extracts of which were produced before the Scrutiny Committee but they were ignored by the Scrutiny Committee. He also submits that even the inquiry conducted by the Vigilance Cell Officer was not proper and was inadequate in the light of requirements of rule 13 of Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of)Caste Certificate Rules, 2012 (for short said rules).

4. Learned AGP supports the impugned order.

5. Copies of the electoral rolls at page No.22 to 24 of the paper book of this case do show that names of the grandfather, great grandfather and cousin of the Petitioner had appeared in the electoral rolls of the year 1964,1967-1972. The impugned order also refers to them but we find that they have not been appreciated properly by the vigilance scrutiny committee. But these electoral rolls were refused to be accepted as proof of residence in Mumbai by the scrutiny committee on the ground that the grandfather, the great grandfather and the cousin of the Petitioner never resided in Mumbai and went back to their original place. In doing so, it appears that the scrutiny committee ignored the fact that electoral roll is an indicator of right of franchise of the voters which is based upon several considerations one of which is the consideration of residence. These electoral roles indicated that the relatives of the Petitioner from the paternal side were shown to be voters from particular ward of Greater Mumbai Municipal Corporation. With such an indication given by the electoral

rolls there should have been no reason for the scrutiny committee to give more credence to oral statement of relative of the Petitioner than documentary proof in the nature of electoral rolls. It would have been different if the scrutiny Committee had expressed doubt about the genuineness of these documents. But, the scrutiny committee has not found these documents to be false or as of doubtful nature. Therefore, we are of the view that the scrutiny committee has committed perversity in ignoring such valuable proof of residence furnished by the Petitioner.

6. We also find that vigilance inquiry conducted in the present case is insufficient in the sense that it has not been conducted in the manner required under rule 13 of said rules. The Vigilance Officer has not made any inquiry with other relatives of the Petitioner. In fact, now the Petitioner has also indicated names of his other relatives. These other relatives being aged persons could have been valuable witnesses from the point of view of gathering evidence in respect of caste claim of the Petitioner, but it appears that no such effort whatsoever has been made by the vigilance inquiry officer in this case. Report of the vigilance Inquiry officer has assumed more significance for the reason that the Petitioner does not possess a single document which shows his social status to be that of "Muslim Qureshi"

7. The impugned order which is based upon such insufficient vigilance inquiry report and rejection of admissible evidence on the ground not germane is perverse and cannot be

sustained in the eye of law. The petition is, therefore, allowed. The impugned order is hereby quashed and set aside and the matter is remanded back for fresh inquiry and fresh decision in accordance with law. The scrutiny committee is at liberty to direct additional inquiry. If additional inquiry is directed, the vigilance officer shall make inquiry with witnesses whose names may be stated by the Petitioner. The Petitioner is at liberty to state names of the witnesses. The Petitioner shall appear before the Scrutiny Committee on 21/3/2022 and produce documents before the Scrutiny committee and also state names of the witnesses who may be examined by the vigilance enquiry officer. The final decision in accordance with law shall be rendered by the scrutiny committee within reasonable period of time preferably within six months from the date of appearance of the Petitioner.

8. Authenticated copy of the order be furnished to the learned Counsel for the Petitioner.

(G. A. SANAP, J.)

(SUNIL B. SHUKRE, J.)