

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 254 OF 2018**

Jamadar Sabheen Altaf Hussain ...Petitioner
Versus
The Chancellor/ Controller of Examination, ...Respondents
Maharashtra University of Health Science & Ors

**WITH
WRIT PETITION NO. 239 OF 2018**

Jamadar Sabheen Altaf Husain ...Petitioner
Versus
The Divisional Caste Scrutiny Committee No. 1 ...Respondent

ASHWINI
HULGOJI
GAJAKOSH

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Date: 2023.04.03
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**Mr RN Mendadkar, i/b Shrishali Sakhare, for the Petitioner in both
Writ Petitions.**
Ms PN Diwan, AGP, for the Respondent-State in both Writ Petitions.
**Mr SP Shivalkar, Law Officer, District Caste Scrutiny Committee,
Solapur, is present.**

**CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 31st March 2023**

PC:-

WRIT PETITION NO. 239 OF 2018:

1. It is unfortunate that this Petition has been pending here for five years. It assails an order dated 2nd March 2017 of the 1st Respondent, the Divisional Caste Scrutiny Committee No. 1, Solapur which rejected the Petitioners application for a caste validity certificate for the Julah caste. The limited ground was that the Petitioner had produced documents that were of her ancestors on her paternal side but could not establish the relationship.

2. Specifically, and this will require some explanation, what the Petitioner produced were documents relating not to her direct paternal ancestors going up to the great-great-grandfather but instead pertaining to descendants of his brother. A family tree is at page 44. The Petitioner's name appears on the left of the family tree at the very foot. Her father was Altaf. His father (the Petitioner's grandfather) was Ismail. His father was Sattar (the Petitioner's great-grandfather) and Sattar's father, the Petitioner's great-great grandfather was Hussain. Now Hussain was said to be the son of one Chandsab. The family tree claims that Chandsab had another son Abdul who in turn had a son, Abdul Gani and who had another son Mohammed Imran. Documents pertaining to Abdul Gani's branch were produced. But the connection between Hussain and Abdul, said to be the sons of Chandsab, was not before the Committee.

3. Mr Mendadkar draws our attention to page 75. This is a later Affidavit and is some form of a land record which shows the name of Mohammed Hussain and Abdul Gani as the heirs of Chandsab.

4. It is impossible to find fault with the decision of the Committee on the basis of material that was never placed before it. There is definitely additional material, and it should be considered. It is for this limited reason and without either finding fault with the Committee or without any assessment of merits of the decision, that we are constrained to quash and set aside the impugned decision and to request the Committee to reconsider the Petitioner's case on the basis of the additional material. This should be done at the earliest possible and preferably within 16 weeks from today.

5. The Writ Petition is disposed of in these terms with no order as to costs.

WRIT PETITION NO. 254 OF 2018:

6. In view of the previous order, Writ Petition No. 254 of 2018 will not survive and is disposed of as infructuous.

(Neela Gokhale, J)

(G. S. Patel, J)