



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7671 OF 2024

Shaikh Aarib Majid

.. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Hanmant P. Jadhav, Advocate for the Petitioner.

Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

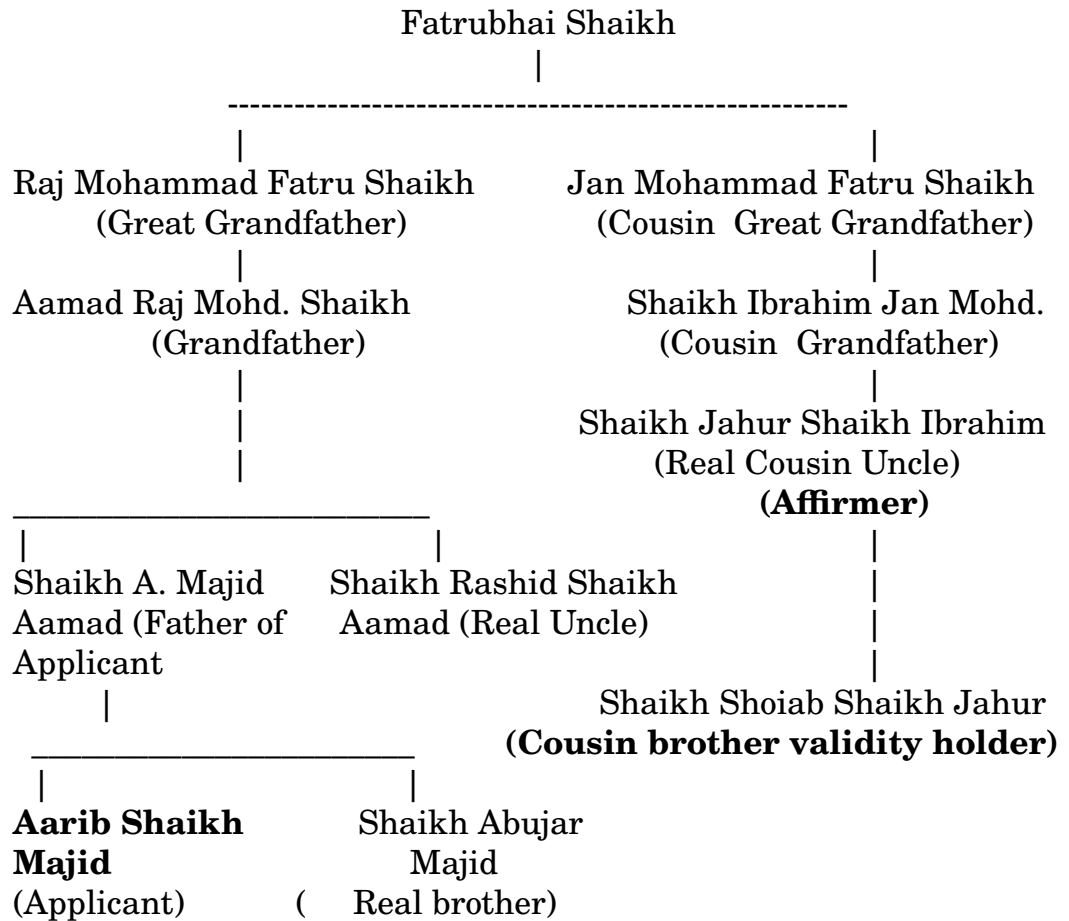
DATE : 26 AUGUST, 2024.

FINAL ORDER :

. The petitioner is aggrieved by the impugned decision of the scrutiny committee refusing to validate his Teli (Sr. No. 181) caste certificate.

2. We have heard both the sides for considerable time.

3. Petitioner was relying upon validity of an individual stated to be related to him by blood namely Shaikh Shoaib Shaikh Zahoor by giving following genealogy.



4. Learned advocate for the petitioner submits that attempt was made to establish the blood relationship by producing the record of rights in Form No. I expressly demonstrating that in land Sy. No. 51 by name Teli Mala, the ancestor of the validity holder and that of the petitioner were shown sharing the land equally as occupants. The petitioner was unable to produce the affidavit of the validity holder which ultimately has resulted in claim being discarded. He would submit that the petitioner is ready to go back to the Committee and make an attempt to establish his blood relationship with the validity holder. He also tenders across the bar affidavit of the validity holder's father stating that the validity holder is serving in Surat Gujarat State and is unable to come forward.

5. The learned Assistant Government Pleader is even opposing the request for remand. He would submit that except producing revenue record (supra) nothing was demonstrated to convince the committee that the validity holder is indeed blood relative of the petitioner. He would submit that inspite of opportunity granted, petitioner did not file affidavit of the validity holder as is required by the rules.

6. We have considered rival submissions and have also gone through the relevant record. Though belatedly, the petitioner has now been able to atleast produce affidavit of validity holder's father giving genealogy to demonstrate their blood relations *intere se*.

7. Additionally, as is mentioned hereinabove, going by the genealogy one Fatrubhai Shaikh seems to be common ancestor and grate grandfather of the petitioner and the validity holder. Fatrubhai is survived by Raj Mohammad Fatru Shaikh and Jan Mohammad Fatru Shaikh, who are their ancestors respectively. The revenue record that is record of rights that was available before the Committee and even the vigilance officer clearly demonstrated that same land Sy. No. 52 was being simultaneously occupied by sons of common ancestor Fatrubhai, having 8 Ana share each. This could not have been possible had there been no blood relationship between these two individuals stated to be sons of Fatrubhai. *Prima facie* he seems to be the great grandfather of the petitioner and the validity holder. The impugned order does not examine this aspect of the matter. Even the petitioner could have, but seems to have not taken any efforts to demonstrate as to how this land Sy. No. 52 was

subsequently inherited by the successors of the original occupant which would have enabled him to discharge the burden cast upon him U/Sec. 8 of the Maharashtra Act No. XXIII of 2001.

8. This being not an adversarial litigation, it would be appropriate that impugned order is quashed and set aside and the matter is remanded back to the scrutiny committee. That would enable the petitioner to substantiate his claim and even would enable the Committee to conduct enquiry in the light of the affidavit of the validity holder's father, to be produced by the petitioner.

9. The writ petition is partly allowed. Impugned order is quashed and set aside. The matter is remanded back to the scrutiny committee for carrying out fresh enquiry. The petitioner shall appear before the Committee on 30 August 2024 and the Committee shall thereafter permit him to lead additional evidence and even may resort to fresh vigilance enquiry and decide the claim afresh, as expeditiously as possible and in any case within a period of three (03) months from today.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Aug. 24