

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1321 OF 2025

Ayyan Ajgar Khan

Age : 23 years, Occu : Student

R/o at :- Kachecha Wada,

Vadgavkar Chal, Daund, Pune.

...Petitioner

Versus

1. The State of Maharashtra
through the Municipal Secretary,
Department of Social Justice,
Mantralaya Maharashtra.

2. The District Caste Scrutiny, Pune.

...Respondents

Mr. Sushant Prabhune, for the Petitioner.

Mr. A.K. Naik, AGP, for the Respondents.

CORAM : SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.

RESERVED ON : 15TH OCTOBER 2025.

PRONOUNCED ON : 17TH OCTOBER 2025.

JUDGMENT :- (PER MANJUSHA DESHPANDE, J.)

1. The Petitioner is a student, who is aspiring to pursue graduation in law. According to the Petitioner, he belongs to 'Mulani' Caste, which is recognized as Other Backward Class and is a Muslim by religion. Therefore, he applied to the Competent Authority for issuance of Caste Certificate. The Competent Authority has issued a Caste Certificate dated 06.02.2024 to the Petitioner certifying that he belongs to 'Mulani' Caste, which is recognized as Other Backward Class at Serial No.340 under the Government Resolution dated 01.03.2006.

2. After receiving the Caste Certificate, the Petitioner submitted a proposal, for scrutiny of his Caste Certificate to the Respondent No.2-Committee. The Respondent No.2-Committee referred the matter to the Vigilance Cell on 03.06.2024. The Inquiry Report dated 11.07.2024 was submitted by the Vigilance Cell to the Caste Scrutiny Committee. A Show Cause Notice was issued to the Petitioner on 04.09.2024, seeking his explanation with regards to contradiction in the documents, due to his surname 'Khan', which was not in consonance with his caste 'Mulani' as claimed by him. The Petitioner submitted his reply to the show Cause Notice issued by the Respondent No.2 on 24.09.2024. After receiving the reply of the Petitioner, the father of the Petitioner appeared before the Scrutiny Committee and his statements were recorded. Ultimately, the Scrutiny Committee passed an order dated 10.12.2024 invalidating the Caste Certificate issued in favour of the Petitioner.

Being aggrieved by this order, the Petitioner has approached this Court under Article 226 of the Constitution of India challenging the order dated 10.12.2024.

3. Mr. Sushant Prabhune, the learned Counsel appearing for the Petitioner submits that the Petitioner is the first person in his family, who is seeking verification of his Caste claim, as there is no validity holder in his family. He primarily relies on the Vigilance Cell Report dated 11.07.2024, to contend that during the Home Inquiry, the Inquiry Officer has recorded his Caste as 'Musalman-Mulani' and occupation as 'Butcher'. Hence, the Vigilance Report is in favour of the Petitioner. He further relies on the death extract of great great grandfather of the Petitioner, Mr. Daulat Khan Saheb Khan Mulani of the year 11.08.1941, which records his caste as 'Musalman Mulani'.

Mr. Prabhune further submits that, the Petitioner has been issued a Show Cause Notice by the Committee calling upon him to explain the contradiction in his surname 'Khan' and his claim of Caste 'Mulani', as well as about the recording of his great great grandfather's entry with surname 'Mulani', in a different ink in the municipal records. The Petitioner has given his reply on 24.09.2024, categorically stating that the original documents recording the caste of his great great grandfather are in possession of the Municipal Council of Daund, to which he does not have any access, nor does he has any control. Therefore, any interpolation or tampering in such documents is not possible at his instance and therefore, it cannot be attributed to him. Those entries have been recorded during the discharge of official work by the concerned Authority.

4. It is the submission of learned Counsel for the Petitioner that the Competent Authority, after due verification, has issued a

Certificate of 'Mulani' Caste in his favour. The issuance of Certificate itself was preceded by a proper inquiry and after verifying the records during the inquiry, the Certificate has been issued to him. Since there is no member in his family who has ever applied for the Caste Certificate or submitted any proposal for verification of Caste Certificate, therefore, the only entry which he could place on record is that of his great great grandfather recorded in the year 1941, which has a great probative value. Even the Vigilance Report is in his favour. Hence, the order passed by the Scrutiny Committee deserves to be quashed and set aside

5. *Per contra*, Mr. A.K. Naik, learned AGP appearing for the Respondents submits that upon receiving the proposal of the Petitioner, it was forwarded for Vigilance Inquiry. The Vigilance Cell conducted Home and School inquiry and submitted its report dated 11.07.2024. In the School Inquiry, it transpired that the School Leaving Certificate of grandfather of the Petitioner Ibrahim Khan Ismail Khan recorded on 13.04.1950 reflected his Caste as 'Musalman-Sunni'. There was no entry of caste 'Mulani'. Even in case of his father, the extract of the Transfer Certificate issued by the school recorded his caste as 'Muslim', which is a religion and not a caste. Under the column of caste, only his religion is recorded.

6. He further submits that Home Inquiry conducted by the Vigilance Cell is a cryptic inquiry, which is limited only to the extent of father of the Petitioner. The Inquiry Officer has also verified the Death and Birth register in order to verify the entry of the great great grandfather of the Petitioner, namely, Daulat Khan

Saheb Khan Mulani. The Inquiry Officer has verified the original record and found that in the column of Caste of the Birth and Death Register, the Caste of the great great grandfather of the Petitioner, recorded on 11.08.1941, the word 'Mulani' appears to have added subsequently in a different ink and in a different handwriting. Hence, in view of the observation recorded by the Vigilance Cell, the Committee has rightly passed the order of invalidation, which does not deserve any interference by this Court.

7. We have heard the respective Counsel and perused the Writ Petition along with its annexures as well as the reply filed by the Respondent Nos.1 and 2.

8. It is not in dispute that the Petitioner is the first person in his family, who aspires to pursue higher education for which he is desirous of obtaining Caste Validity, of belonging to 'Mulani' Caste, which is at Serial No.340 under the Government Resolution dated 01.03.2006. Though the Petitioner has been issued a Caste Certificate on 06.02.2024, same is required to be verified by the Respondent No.2-Committee. Upon perusal of the impugned order dated 10.12.2024, it appears that the Petitioner had submitted eight documents in support of his Caste claim. Amongst the eight documents, first document is his own Certificate showing his Caste 'Mulani'. Rest of the documents are in relation to his great great grandfather, grandfather and father, all showing their Caste as 'Muslim' or 'Musalman-Sunni'. Therefore, the Committee has considered those documents and has come to a conclusion that

from the documents produced by the Petitioner, the Petitioner has failed to prove his claim of belonging to 'Mulani' Caste.

9. However, when our attention was drawn to the Vigilance Report, more particularly, the Home Inquiry conducted by the Inquiry Officer, we find that the Home Inquiry is cryptic in nature and does not record the necessary details of the Petitioner. The learned Counsel for the Petitioner has placed on record the decision of this Court in Writ Petition No.10577 of 2013 dated 21.02.2014 [Coram : A.S. Oka & M.S. Sonak, JJ.], wherein this Court has made following observations :

“4. We have carefully considered the submissions. The petitioner claimed that she belongs to caste Mujawar which is recognized “Other Backward Class” in the State of Maharashtra. On the basis of the recommendation of Mandal Commission that certain castes in the Mohameddians were recognized as reserved castes. Notification has been issued by the State Government on 9th August 1995.”

“5. It cannot be disputed that in case of the Mohameddians, there were no recognised castes or sub castes and therefore, as in the case of Hindus, there is no likelihood of finding any entry of the caste of a person of Mohameddians religion in old records.”

“6. In the present case, the petitioner is claiming to be belonging to caste Mujawar. Our attention is invited to the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukt Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (hereinafter referred to as ‘the said Rules’). Rule 12 provided for the constitution of Vigilance Cell. Rule 13 deals with contents of the report upon investigation made by the Vigilance Cell. Sub Rule (1) of Rule 13 reads thus :

- 13. “Report of Vigilance Cell and Issues to be dealt with -
(1) Vigilance Cell Officer(s) shall submit report upon*

investigating into the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim referred to it-

(a) by visiting permanent place of residence and conducting domestic inquiry, or

(b) by recording statements of respected and responsible persons from concerned area, including representatives of Local Self Government, Police, Patil, etc; or

(c) by collecting information, as part of recording statement, as regards to name, age, educational qualification, occupation, existing place of residence and information regarding properties (existing and disposed) of family members of applicant or claimant; or

(d) by collecting information including the sociological, anthropological and ethnological (anthropological moorings and ethnological kinship), genetical traits of the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category, if any; or

(e) by personally visiting Office of the Competent Authority or revenue or school or other concerned offices.”

In the present case, the Vigilance Cell report is on record. Clause (d) of sub Rule 1 of Rule 13 provides that the Vigilance Cell should collect information including sociological, anthropological, ethnological and genetical traits of the relevant Caste. In the present case, this exercise was necessary as we have already observed earlier that there is no likelihood of any entry of caste recorded in old record in the case of Mohameddans. It was necessary for the Vigilance Cell to make an enquiry in terms of clause (d). An enquiry should have been made to ascertain the traditional occupation of the Mujawars. We have perused the Vigilance Cell report. We find that no such exercise has been made. Perusal of the impugned order shows that even the Caste Scrutiny Committee has not applied the affinity test. Therefore, we find that the entire approach of the Caste Scrutiny Committee is erroneous as in the facts of the case, the Caste Scrutiny Committee should have directed the Vigilance Cell to do the exercise under the provisions of Clause (d) of Sub Rule 1 of Rule 13 the said Rules. The Caste Scrutiny Committee ought to have held the appropriate enquiry in the present case. Earlier, the petitioner had obtained caste certificate of the caste Shikalgar. A caste certificate is not conclusive evidence of caste. It is not the case

made out that any adjudication was made on the basis of the said certificate by the Caste Scrutiny Committee. In the present case, the enquiry as contemplated by the Rules has not been held. Only on the basis of the impugned order, the petitioner who was elected Councillor of Municipal Corporation has been unseated. Now, the notification dated 15th February 2014 issued by the first respondent State Election Commission records that the election will be held to fill in the vacancy caused by the petitioner. The election programme is to start from 25th February 2014 and the election is scheduled to be held on 23rd March 2014. If the petitioner succeeds after the order of remand, the order unseating the petitioner will not survive and therefore, to avoid any complications, it will be necessary for the State Election Commission to postpone the election for filling up the vacancy caused by the petitioner.

10. Rule 12 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, provides for constitution of Vigilance Cell, Rule 13 mandates that the Vigilance Cell Officers shall submit a report by visiting the permanent place of residence for conducting Domestic Inquiry recording statement of respected and responsible persons from concerned area, including representative of Local Self Government, Police Patil, etc., which is reiterated by this Court in the aforementioned decision. After perusing the Vigilance Report, we find that mandate of Rule 13 is not followed by the Vigilance Cell. Only the statement of father of the Petitioner has been recorded, which is insufficient.

11. The Court while deciding the Writ Petition No. 10577 of 2013, has observed that, on the basis of recommendations of Mandal Commission, certain Caste in Mohammedans have been

recognized as Other Backward Classes. In case of Mohammedans there was no recognized castes or sub-castes, like in case of Hindus, therefore, there is no likelihood of finding old entries of Caste in case of person of Mohammedan religion.

12. In the peculiar fact of the present case, wherein the Petitioner is the first person in his family, who has applied for Caste Verification, an appropriate inquiry ought to have been conducted by the Inquiry Officer of the Vigilance Cell. We are, thus, of the view that the Inquiry Officer of the vigilance Cell should make inquiry with the neighbors as well as relatives of the Petitioner and collect more information including sociological, anthropological, ethnological, and general trait of relevance to 'Mulani' Caste before preparing a report. At the same time, opportunity should be afforded to the Petitioner to produce documents during the Vigilance Inquiry in support of his claim of 'Mulani' Caste. Since the Vigilance Report is found wanting on the above counts, the order passed by the Scrutiny Committee based on such Vigilance Report becomes unsustainable in law.

13. In view of the above observations, the order of invalidation of the Caste Certificate of the Petitioner issued by the Respondent No.2-Committee dated 10.12.2024 is quashed and set aside. The matter is remanded back to the Respondent No.2-Committee to issue direction for conduct of fresh Vigilance Inquiry in case of the Petitioner, if required, by granting him opportunity to produce fresh documents, if he so desires and thereafter, pass appropriate order as expeditiously possible preferably within three months from the date of receipt of a Certified Copy of this order.

14. With the above directions, the Writ Petition stands disposed of.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)