



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3386 OF 2019

Mohammad Fayyaz Husain s/o Gulam Shabbir,
Aged about 48 years, Occ. Medical Practitioner,
r/o Syed Pura, Balapur, Tq. Balapur,
District Akola

... Petitioner

-vs-

1. State of Maharashtra,
Thr. Secretary, Urban Development Department,
Mantralaya, Mumbai-32,
2. Collector, Akola,
Tq. And Distt. Akola,
3. Chief Officer,
Municipal Council, Balapur,
Tq. Balapur, Distt. Akola
4. The District Caste Certificate Verification Committee,
Akola, 2nd Floor, Administrative Building,
Collectorate, Akola, Tq. And Dist. Akola,
Through its Chairman/President,
5. Shaikh Bismilla Noor Mohammad
Aged about 35 years, occ.
r/o Near Chooti Masjid, Bada Mominpura,
Balapur, Tq. Balapur, Distt. Akola

... Respondents

Shri C. A. Joshi, Advocate for petitioner.
Smt K. S. Bhondge, Assistant Government Pleader for respondent Nos.1, 2 and 4.
Shri A. B. Mirza, Advocate for respondent No.5.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.
DATE : March 11, 2025

ORAL JUDGMENT : (Per : Nitin W. Sambre, J.)

1. Heard.
2. Challenge is to the order impugned dated 30/03/2019 passed by

the respondent No.4-The District Caste Certificate Verification Committee, Akola (For short, the Committee) whereby the prayer for issuance of validity of belonging to 'Julaha' Other Backward Class came to be rejected.

3. The members of the Committee shared divergent opinion i.e. the Chairman of the Committee is of the opinion that 1941 pre constitutional era document establishes the claim of the petitioner and as such held the petitioner to be entitled for issuance of validity; whereas the Member-Secretary and the Member have held that the petitioner has failed to establish his relationship with the validity holders.

4. In this backdrop, if have appreciated the reasons furnished in the impugned order, the minority view of the Committee is based on the fact that the petitioner has provided the details of the validity holders in the family tree provided in 2011. Such record was available with the Sub-Divisional Officer when perhaps the caste certificate was issued.

5. In case if the Committee was of the opinion that the validity holders are not related to the petitioner, it was open for the Committee to cause enquiry including that of field enquiry through the Vigilance Cell to find out and decide whether the validity holders are the blood relations of the petitioner as claimed by him.

6. There is a failure on the part of the Secretary-Member and the Member of the Committee to take recourse to such procedure who are in error in recording findings against the petitioner in absence of cogent evidence.

7. Apart from above, we are equally sensitive to the fact that the record of 18/08/1941 in relation to Municipal Council, Balapur speaks of birth of Gulam Shabbir Mohd. Hussain who is father of the petitioner.

Such pre constitutional era document/evidence has more probative value which is without any basis discarded by the Committee.

8. Instead of considering the said document, in view expressed by the Secretary-Member and the Member of the Scrutiny Committee, they have proceeded to reject the claim on the ground that the relationship of the petitioner with the validity holders was not established.

9. The observation of the Committee while rejecting the claim is without any legal basis and as such is not germane to the cause particularly when 1941 document speaks of the petitioner belonging to Julaha, Other Backward Class.

10. The petitioner has placed on record the validity certificate issued in favour of nephew Mohd Fahad Mohd Farooque dated 11/11/2010, petitioner's real brother Mohd. Fajil Gulam Shabbir issued in 2011-12, niece Aqsa Fatema Mohd Feroz dated 12/05/2017 and his daughter viz. Samiya Shajar Mohd Faiyaz Husain dated 16/05/2017.

To the aforesaid evidence, there is no counter from the respondent-Committee. As such, it has to be held that all these four validity holders are the blood relations of the petitioner.

11. In the aforesaid background in absence of cogent material to infer that the petitioner is not related to the validity holders which is recorded by the Scrutiny Committee, the Committee is in error in recording a finding to that effect to reject the claim of the petitioner.

Rather from the above discussion as evidence produced by the petitioner in support of claim for validity, it can be safely recorded that the petitioner has discharged his burden under Section 8 of the 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 Act, 2000.

12. That being so, the order impugned passed by the Scrutiny Committee on 30/03/2019 is hereby quashed and set aside.

The petitioner is declared to be belonging to 'Julaha' Other Backward Class.

The respondent-District Caste Certificate Verification Committee, Akola is directed to issue validity certificate of belonging to 'Julaha' Other Backward Class in favour of the petitioner within a period of six weeks from today.

Rule is made absolute in the aforesaid terms. No order as to costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)