



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3679 OF 2024

Mohd. Yasir s/o Mohd. Nasir
Sikkalgar, Aged about 18 years,
Occupation-Student,
R/o. Near Jama Masjid Inamdar
Pura, Telipura Chowk, Akola
District-Akola-444001.

..

Petitioner

.. Versus ..

The District Caste Certificate Scrutiny
Committee, Collectorate Campus,
Administrative Building, Second Floor,
Akola, Tq. and Distt. Akola,
through its Research Officer / Member
Secretary.

..

Respondent

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Shri R.D. Karode, Advocate, for Petitioner.
Shri P.P. Pendke, AGP for Respondent.

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CORAM : SMT. M.S. JAWALKAR AND
PRAVIN S. PATIL, JJ.

DATED : 25th JULY, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. The challenge in the petition is to the order dated 04.01.2024 passed by the Respondent–The District Caste Certificate Scrutiny Committee, Akola invalidating the claim of the petitioner of belonging to caste ‘Sikkalgar’, which is recorded as Nomadic Tribe (N.T.-B) at Sr. No.21.

3. In brief, it is the submission of the petitioner that petitioner is the descendant of Mohd. Ishak Mohd. Ibrahim and Mohd. Zakir Shaikh Ibrahim is his cousin grandfather. According to petitioner, the cousin brother namely Mohd. Javed Mohd. Zakir has been granted the caste validity certificate by the Caste Scrutiny Committee, vide order dated 04.11.2023. Hence, considering the settled principles of law that if from the paternal side the caste validity is granted, then there is no necessity for further investigation in the matter and the petitioner is entitled for the caste validity certificate.

4. In addition to above, petitioner has further relied upon the School Leaving Certificate of his cousin grandfather namely, Mohd. Zakir Shaikh Ibrahim in which the caste of his cousin grandfather is recorded as ‘Sikkalgar’. As such,

considering the documents before the cut off date, same is having more probative value. However, Respondent committed grave illegality by not considering the said documents and consequently the impugned order is liable to be quashed and set aside.

5. Per contra, the learned Assistant Government Pleader appearing for the respondent-committee disputed the relation of the petitioner with Mohd. Zakir Shaikh Ibrahim by stating that the petitioner failed to establish his relation with cousin great grandfather and no document, except affidavit, is placed on record. Hence, the caste validity certificate granted in favour of Mohd. Javed Mohd. Zakir cannot be relied upon in the present case.

6. In respect of the documents before cut off date, it is stated that in the School Leaving Certificate of Mohd. Zakir Shaikh Ibrahim, the 'Sikkalgar' was shown as a business and not as a caste and in respect of student admit/cancel register, the caste is shown as a 'Musalman' and again the business is shown as a 'Sikkalgar'. Hence, considering these documents, it is the submission of the respondent-committee that they are not the

conclusive proof to establish the caste of the petitioner as a 'Sikkalgar' in the matter.

7. We have heard both the counsel and perused the record as well as the case laws pointed by the petitioner in the matter.

8. In view of the submission of the respondent-committee, we have perused the vigilance cell report dated 18.10.2023. In the said report under Clause (III), the name of grandfather of petitioner and name of descendants of grandfather is recorded. The said entry clearly shows the name of the grandfather of the petitioner as Mohd. Ishak Shaikh Ibrahim and the brother names of his grandfather are Mohd. Zakir, Mohd. Sadiq, Mohd. Jikar and Mohd. Harun. As such, from the vigilance cell report, it is clear that Mohd. Zakir is the cousin grandfather of the petitioner. Hence, the submission of the respondent-committee that the petitioner failed to establish the relations with Mohd. Zakir found to be baseless.

9. It is submitted that, the Respondent-Committee referred the matter to Vigilance Cell for verification. The

Vigilance Cell accordingly conducted enquiry and found relation of Petitioner with Mohd. Zakir as cousin Grandfather. Hence, it was necessary for Respondent-Committee to record reasons as to why the relation recorded by Vigilance Cell are not trustworthy. But unfortunately there are no reasons recorded. Hence, the finding recorded by Vigilance Cell cannot be discarded in the matter.

10. It is admitted fact in the present case that cousin brother of the petitioner namely, Mohd. Javed Mohd. Zakir has been granted the caste validity certificate of caste "Sikkalgar, vide order dated 04.11.2003. The same is holding the field till date and, therefore, considering the law laid down by this Court in the case of *Apoorva d/o Vinay Nichale .vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in 2010 (6) Mh.L.J. 401*, wherein it is held that when the validity is granted to one of the member of the family, then again the brother, sister, father etc. is not required to go through the same procedure, as it would unnecessarily burden the work of committee. Here, considering the said legal position, we are of the opinion that the committee has failed to appreciate legal

position and discarded the caste validity certificate relied by the petitioner.

11. In respect of the documents before the cut off date, which are specifically relied upon by the petitioner, clearly shows the entries of caste "Sikkalgar", though there is some error while recording the caste of the petitioner cannot be a ground to discard the said documents. According to us, the Caste Scrutiny Committee ought to have considered the fact that 'Musalman is not a caste but it is a religion and the caste affixed to the said religion was required to be considered, but it seems that the committee failed to consider the documents in right perspective.

12. The petitioner has rightly relied upon the judgment of this Court in *Writ Petition No.1260/2009, decided on 10th August, 2017 (Ibrahim Khan s/o Mohd. Khan .vs. The State of Maharashtra and others)*, wherein this court observed in paras 2 and 3, as under :

"2.....The other documents at senior Nos.3, 4, 5 and 10 are rejected by the Committee holding that the caste of the petitioner and his brother is recorded as 'Musalman' as well as 'Muslim' in the column of race and caste (with sub-caste). It further holds that these entries are sufficient enough to prove that the

petitioner does not belong to 'Raj', Scheduled Tribe. The Committee also holds that the petitioner has failed to establish affinity with 'Raj', Scheduled Tribe.

3. It is not possible for us to accept the distinction made by the Committee between caste 'Raj', Scheduled Tribe, in the absence of any specific finding that there exists a separate caste 'Raj', other than 'Raj', Scheduled Tribe. In the decision of the Division Bench of this Court delivered on 31-8-2009 in the case of Shakil Ahmed Khan .v. State of Maharashtra and others in Writ Petition No.5437 of 2008, this Court has held that Musalman or Muslim or Mohmmedan is a religion and not a caste. It has also held that it is not the case of the Scrutiny Committee that 'Raj', Scheduled Tribe exists only in Hindu religion and, therefore, merely because the petitioner is found to be Musalman or Muslim, his claim for 'Raj', Scheduled Tribe cannot be rejected. In view of this, we are of the view that the Committee is required to have a fresh look in the matter and, therefore, the order impugned cannot be sustained and it required to be quashed and set aside with an order of remand."

13. Hence, considering the facts and legal position in this matter, we find that the respondent-committee has not appreciated the caste claim of the petitioner in proper perspective and, therefore, same is liable to be quashed and set aside. Hence, we proceed to pass the following order :

O R D E R

- (1) The writ petition is allowed.
- (2) The impugned order dated 04.01.2024 passed by the Respondent-Committee in Case No. ED-2023-01128689 is hereby quashed and set aside.

(3) It is hereby declared that the petitioner belongs to caste of "Sikkalgar" which is recognized as (N.T.-B) at Serial No.21 and accordingly the Respondent-Committee is directed to issue Caste Validity Certificate to the petitioner within a period of three weeks from the date of receipt of this order.

14. Rule is made absolute in the above terms. No costs.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)