

**(2022) 04 BOM CK 0129**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 5401 Of 2021**

Mohammad Anas Mohammad Salim

APPELLANT

Vs

District Caste Scrutiny Committee, Amravat And Others

RESPONDENT

**Date of Decision :** 26-04-2022

**Acts Referred:**

Backward Category (Regulation Of Issuance And Verification Of) Caste Certificate Rules, 2012 — Rule 16(3)

**Citation :** (2022) 04 BOM CK 0129

**Hon'ble Judges :** Sunil B. Shukre, J; M.S. Jawalkar, J

**Bench :** Division Bench

**Advocate :** Abdul Subhan, H.N. Jaipurkar, V.R. Deshpande

**Final Decision :** Partly Allowed

## Judgement

M.S. Jawalkar, J

1. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.
2. The present petition raises challenge to the order dated 14/09/2021 passed by respondent No.1 – Scrutiny Committee, thereby rejecting caste claim of the petitioner. The petitioner claims belonging to 'Kachi' caste which is recognized as Other Backward Classes at Serial No. 85, as per Government Resolution dated 01/06/2004. Sub Divisional Officer issued caste certificate on 18/04/2016, as per Rules framed by the State of Maharashtra i.e. Maharashtra Scheduled Castes, Denotified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012) (hereinafter referred to as 'Rules of 2012'). As per regularization of issuance and verification of caste certificate Rules, 2012, after issuance of certificate, it was sent to the District Caste Scrutiny Committee for its verification. The petitioner had secured admission in the one year of under graduate technical course in Engineering and Technology for the Academic year 2020-21 against the seat reserved for Other Backward Class. Thereafter, he

submitted his certificate along with other documents for verification to the respondent No.1, Scrutiny Committee. He also placed family tree along with the application. The Scrutiny Committee issued notice to the petitioner thereby informing to remain present on 29/06/2020. The learned Counsel alleged that the respondent Committee without referring the documents submitted by the petitioner to the vigilance cell for enquiry passed impugned order. There is no contrary remark in the document submitted by the petitioner. The Scrutiny Committee rejected the caste claim after eight months and communicated the same after fourteen months. The claim was rejected on the ground that 'dph' is a sub-caste of Kachi, Kushwaha, Shakya, Morya, Murai, Saini and the affinity test of 'dph' do not match with the Kachi, Kushwaha, Shakya, Morya, Murai, Saini. In this backdrop, petitioner prays for setting aside the order of Scrutiny Committee and for issuance of caste certificate. It is contended that order passed by the Committee is totally erroneous, without application of mind and ignored the documents which are having great probative value. The Caste Scrutiny Committee even ignored the certificate issued in favour of blood relatives. The learned Counsel relied on judgment in -

1. Writ Petition No. 6023/2019, Kareema Abdul Shakoor Nagani Vs. District Caste Scrutiny Committee, Nagpur and others.

2. Writ Petition No. 1009/2017, Sangita Madan Ingle Vs. Vice Chairman/Joint Commissioner, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati.

3. State of Maharashtra Vs. Mana Aadim Jamat Mandal, reported in (2006) 4 SCC 98.

4. Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur and others reported in 2010 (6) Mh.L.J. 401.

3. Learned Assistant Government Pleader orally opposed the petition however not filed any reply.

4. We have heard the parties at length. Perused impugned order and considered supporting citations. The claim of the petitioner was for 'dph@dkNh' Other Backward Class category at Serial No. 85 in the list which reproduced below :

5. The petitioner produced before Caste Scrutiny Committee the caste validity certificate issued in favour of his father and real uncle. There is no dispute about the family tree nor about genuinity of the documents. As per Rule 16(3) of Rules of 2012 which reads as under :

"(1) .....

(2) .....

(3) If an applicant submits the application alongwith the caste validity certificate of his father in blood relation or real uncle or any other blood relative from paternal side and if he has applied for the same caste of which above mentioned validity certificate is issued, in such case the name of such applicant alongwith

the caste validity certificate of his father in blood relation or real uncle or any other blood relative from paternal side submitted by him will be displayed on the web site of Dr.Babasaheb Ambedkar Research And Training Institute, Pune (BARTI) as well it will be displayed on the notice board of the concerned District Caste Certificate Scrutiny Committee. It will be conveyed to register objection if any about the request of an applicant within 15 days from such publication.

If no objections or complaints are received with regard to such application then District Caste Certificate Scrutiny Committee will issue caste validity certificate without asking for other documents of proof by considering that validity certificate as an important evidence.

If any objections or complaints are received on the application, the District Caste Certificate Scrutiny Committee will make an enquiry within the maximum period of sixty days from the receipt of such complaints or objections.

If no substance is found the District Caste Certificate Scrutiny Committee will issue the validity certificate to the applicant. If any substance is found in objections or complaints the District Caste Certificate Scrutiny Committee will take decision about claim of the caste verification of concerned applicant by following prescribed office procedure and the decision about the caste validity will be taken."

6. There is also no dispute that the father and uncle of the petitioner were issued validity certificate. However, the Caste Scrutiny Committee discarded these documents and rejected the claim of the petitioner on the ground that 'Kachi' is sub-caste of Kachi, Kushwaha, Shakya, Morya, Murai, Saini which were included in Entry 85 by way of amendment. The affinity test of 'Kacchi' do not match with the caste of Kachi, Kushwaha, Shakya, Morya, Murai, Saini. As held in Apoorva (supra), once a caste claim in blood relative is decided then Scrutiny Committee cannot refuse the same status to his or her blood relatives who applies. Thus, once issuance of caste validity certificate in the name of blood relatives, there cannot be a different conclusion than one that the petitioners are entitled to get the validity certificate in their favour. It is also held that between one entry and another if 'comma' is provided in between two entries each of the castes specified in Serial No. 85, must be deemed to be separate caste and not a sub-caste.

7. If cut of date is taken as 30/01/2014 as कची/ कछी is included by way of amendment in entry No. 85, the following documents can be considered for deciding the claim.

Sr.

No.

Name

Documents/ Certificates

Date

Caste

1

Mohd. Anas Mohd.Salim Kacchi

Caste Certificate

18-04-2016

KACCHI

2

Mohd. Anas Mohd.Salim Kacchi

School leaving Certificate

26/06/2008

(Date of Admission)

KACCHI

3

Mohd. Salim Mohd.

Yusuf

School leaving Certificate

17/06/1981

(Date of Admission)

कच्छी

4

Mohd. Rafiq Mohd. Yusuf Ali Mohd.

Transfer Certificate

03-07-1978

कच्छी

5

Mohd. Salim Mohd Yusuf

Certificate of Validity

19-05-2016

Kacchi

6

Mohd. Rafiq Mohd.

Yusuf

Certificate of Validity

19-05-2016

Kacchi

7

Ali Mohd Tar Mohd dNh

Jamabandi Chart

1942-43

कच्छी

8

Ali Mohd Tar Mohd dPNh

Jamabandi Chart

1950-51

कच्छी

9

.....

Jamabandi Chart

1959-60

कच्छी

Six out of these nine documents are prior to cut off date. The Caste Scrutiny Committee discarded these documents on the ground that in school leaving certificate the caste is mentioned as Musalman so also it is showing caste dNh which is differed from dNh aand held that his claim of caste belonging to 'Kachi' is not established by these documents. Caste Scrutiny Committee discarded those documents as petitioner is claiming 'Kachi' whereas caste is shown as 'Kachhi'. Before discarding these documents the Caste Scrutiny Committee failed to appreciate that validity certificate was issued to blood relatives of the petitioner. While discarding these documents Scrutiny Committee observed in Para 12 as under :

8. Though it is held that those certificates were issued without conducting any enquiry through vigilance cell and without complying affinity test, those were

neither recalled nor cancelled. Surprisingly the Caste Scrutiny Committee though having authority to direct enquiry through vigilance cell, in this matter did not refer the said documents to the vigilance cell nor got any enquiry conducted through vigilance cell. Specifically when on the ground of absence of enquiry through vigilance cell, validity certificates were discarded by the Scrutiny Committee.

9. In such circumstances if Caste Scrutiny Committee is of the opinion that those certificates were issued without any enquiry by vigilance cell, it would be appropriate for Caste Scrutiny Committee at least to refer to documents produced by the petitioner before the Caste Scrutiny Committee to the vigilance cell for its verification. The documents are showing caste of the near relatives of the petitioner कछी, कच्छी. In view thereof enquiry was necessary. The Caste Scrutiny Committee passed order without referring the documents to the vigilance cell and without granting any opportunity to the petitioner to submit any say in respect of earlier validity certificate issued by the Committee. Thus without conducting any enquiry through vigilance cell the order came to be passed. By that Caste Scrutiny Committee failed to conduct enquiry as per law laid down by the Apex Court. Thus it would be proper to remit back the matter to the Caste Scrutiny Committee for fresh enquiry. Impugned order is unsustainable and illegal, hence liable to be set aside. Accordingly we proceed to pass the following order.

#### ORDER

1. Petition is partly allowed. Impugned order passed by respondent No.1 – District Caste Scrutiny Committee, Amravati dated 31/03/2021 is hereby quashed and set aside.

2. The respondent No.1 is hereby directed to conduct fresh enquiry by granting full opportunity to the petitioner and take a fresh decision in accordance with law. Fresh decision shall be taken within a period of six months from the date of receipt of order.

3. The respondent Nos. 2 and 3 are hereby directed not to disturb the admission of petitioner and permit the petitioner to appear in the 3rd and 4th semester examination of 2nd year Civil Engineering course and to take decision after enquiry and fresh decision about the caste claim of the petitioner by the Scrutiny Committee.

Civil Application No. 854/2022 also stands disposed of in view of the above said order.

No orders as to costs.