

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

WRIT PETITION NO. 803 OF 2015

Vijaykumar S/o Babasaheb Jalan,
Age : 57 Years, Occu. : Circle Officer,
R/o Mitra Nagar, Latur,
Tq. & Dist. Latur. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai - 32.
2. The Collector, Latur.
3. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad. .. Respondents

Shri G. N. Patil, Advocate for the Petitioner.
Smt. S. A. Dhumal, A.G.P. for Respondent Nos. 1 and 2.
Shri Ashok B. Tele, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
V. L ACHLIYA, JJ.**

DATE : 05TH FEBRUARY, 2015.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. Mr. Patil, the learned counsel for the petitioner submits that, now the petitioner has got the original certificate as belonging to "Koli Mahadev" (Scheduled Tribe). According to the learned counsel the petitioner would submit the said original certificate with the employer for referring it to the Committee seeking validity. According to the learned counsel, the petitioner is appointed in the year 1979 and is terminated only on the ground that validity certificate is not submitted. According to the learned counsel, the original certificate was not earlier traced and not as it is traced out, the said would be submitted.

3. Mr. Tele, the learned counsel for the Committee submits that, after the proposal is received, the Committee would decide the said proposal on its own merits.

4. The learned A. G. P. states that, as the validity was not obtained and the appointment of the petitioner was as against the reserved seat, action has been rightly taken by respondents.

5. We have considered the submissions canvassed by learned counsel for respective parties.

6. In view of the judgment of the Full Bench of this Court in a case of **Arun Sonawane Vs. The State of Maharashtra** and

others reported in **2015(1) Mh.L.J. 457** the protection can be granted to a person appointed prior to the enforcement of the Maharashtra Scheduled Caste, Scheduled Tribe, De-notified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, in case the committee on examining the proposal invalidates it, however, not on the ground of fraud, misrepresentation or forgery. The proposal has to be submitted to the Committee, as the petitioner has shown his willingness to submit the original certificate. The employer can forward the same to the Committee.

7. Considering the above, we pass the following order.

8. The impugned order dated 31.12.2014 is quashed and set aside. The petitioner shall be reinstated in service on the post which he was holding on the date of his termination, however, will not be entitled to the salary from the date of termination till date of this order. But the said period shall be considered for continuity in service. The petitioner shall submit original tribe certificate to the respondent/employer within a period of 15 days from today. On receipt of the said original certificate, the employer shall submit the proposal to the respondent/Committee for validation of the same. The respondent/employer can take further action in tune with the judgment of the committee in

validation proceedings.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[V. L ACHLIYA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Feb. 15