

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

WRIT PETITION NO.1661 OF 2002

Yuvraj Atmaram Pathakrao
Aged-26 years, Occu-Service,
R/o. At & Post. Motegaon,
Tq. Renapur, Dist. Latur.

...PETITIONER

Versus

1. The State of Maharashtra **...RESPONDENTS**
2. The Committee for Scrutiny &
Verification of Tribe Claims,
MS, Aurangabad.
3. The Tahasildar &
Tq. Executive Magistrate,
Latur.
4. The Maharashtra State Electricity Board
(Through Its Executive Engineer)
O & M Division Ambajogai,
Dist. Beed.

Mr.U.R.Awate h/f Mr.S.B.Talekar, Advocate for the
petitioner.

MR.S.S.Tope, AGP for the respondent/State.

Mr.A.B. Tele, Advocate for R-2.

**CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.**

DATED : 19.06.2015

ORAL JUDGMENT : [Per: A.M.Badar, J.]

1. Heard learned counsel appearing for respective parties and perused the impugned order as well as record made available.

2. By this petition, the petitioner is challenging order dated 31.01.2002, passed by respondent No.2-Scrutiny Committee, thereby invalidating the claim of the petitioner for "Koli Mahadeo" Scheduled Tribe.

3. We heard learned counsel Mr.U.R. Awate, appearing for the petitioner. He fairly stated that, now the petitioner is not interested in prosecuting his claim for "Koli Mahadeo" scheduled tribe. Instead, he is giving up that claim and is praying for service protection.

4. The petitioner came to be appointed vide order dated 07.08.1997 as 'Electrical Operator' with respondent No. 4-Electricity Board. The post was reserved for the Scheduled Tribe category. Therefore the Tribe certificate of the petitioner was sent for scrutiny. By the impugned order respondent No.2-Committee and Vigilance Cell, invalidated the Tribe claim of the petitioner. Undisputedly the petitioner is in continuous service from the year 1997.

5. With the assistance of the learned counsel appearing for the parties, we have perused the impugned order invalidating the Tribe Claim of the petitioner. There is no observation made by the Scrutiny Committee in the impugned order regarding falsity of the claim for "Koli Mahadeo" schedule tribe made by the petitioner. We have not found anything in the impugned order suggesting that the petitioner has secured the Tribe certificate fraudulently or that he has gained benefit for Scheduled Tribe fraudulently. The claim of the petitioner has been rejected by the Scrutiny Committee on the basis of documents in respect of his father as well as on for the reason of failure of affinity test. Hence, by applying the judgment of full bench in the matter of Arun Vishwanath Sonone Vs The State of Maharashtra and others reported in 2015(I)Mh.L.J.457, it would be necessary to protect the service of the petitioner, as he has relinquished his claim as "Koli Mahadeo".

6. In view of forgoing discussion, the writ petition is partly allowed. The service of the petitioner is protected as he was appointed on 07.08.1997, in view of the law laid down by the Full Bench of this Court, in the matter of Arun Vishwanath Sonone Vs The State of Maharashtra and others reported in 2015(I)Mh.L.J.457.

(Supra) on the petitioner's furnishing an undertaking before this Court as well as his employer, to the effect that neither he nor his progeny will secure any benefit available to the Scheduled Tribe. The petitioner shall not take any advantage in terms of promotion or otherwise after 28.11.2000 in service on the basis of his claim for Scheduled Tribe category. If the petitioner tenders such undertaking within 15 days from today before this Court, his service shall be protected.

7. With these directions Rule is made absolute. No order as to costs.

[A.M. BADAR,J.]

[A.V. NIRGUDE,J.]