

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

WRIT PETITION NO. 1117 OF 2015

Ramesh S/o Rajdhar Patil,
Age : 48 Years, Occu. : Assistant Teacher,
R/o Chandresh Galaxy, Second Phase,
Jasmin A-104, Sai Chowk,
Khadakpada, Kalyan (West),
Dist. Thane. .. Petitioner

Versus

1. State of Maharashtra,
Through Secretary,
Social Justice Dept.,
Mantralaya, Mumbai 32.
2. The Divisional Caste Certificate
Scrutiny Committee No. 2,
Kanushri Towers, 10,
Badgujar Plot, Parola Road,
Dhule - 424004.
3. New English School and Junior College
Ghantali Colony, Naupada,
Thane, Dist. Thane through
its Head Master.
4. The Education Officer Secondary,
Thane Zilla Parishad, Thane,
Dist. Thane. .. Respondents

Shri Pradeep R. Patil, Advocate for the Petitioner.
Shri G. K. Thigle, Addl.G.P. for Respondent Nos. 1, 2 and 4.
Shri M. A. Thorbole, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.
DATE : 28TH APRIL, 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 on instructions submits that, the petitioner is not agitating the judgment passed by the Committee invalidating the caste claim of the petitioner as belonging to Rajput Bhamta (N. T.) and is restricting the present writ petition to the extent of protection in service. The learned counsel submits that, the petitioner is appointed as an Assistant Teacher on 01.08.1996 and since then is in continuous service. After seventeen years the caste claim was referred to the Committee and the Committee has invalidated the caste claim of the petitioner on the ground that there is insufficient evidence and there is no record to substantiate the caste of the petitioner as belonging to Rajput Bhamta (N.T.). The learned counsel submits that, there is no observation of fraud, misrepresentation or forgery on the part of the petitioner in the judgment of the Committee. The learned counsel seeks protection in service in view of the judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone Vs. State of Maharashtra** reported in **2015(1) Mh.L.J. 457.**

3. The learned counsel for the respondent No. 3 accepts the fact that, the petitioner is in continuous service since the date of his appointment and is working as Assistant Teacher. The petitioner was not given any benefit of promotion or otherwise after the year 2000.

4. We have also heard the learned Additional Government Pleader.

5. We have gone through the judgment delivered by the Committee. The caste claim of the petitioner is invalidated on the ground that, the petitioner could not prove his caste as belonging to Rajput Bhamta (N.T.) for lack of evidence. On perusal of the judgment, it is manifest that the Committee has nowhere observed that, there is any fraud played by the petitioner or it is a case of misrepresentation or forgery. In the light of the judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone Vs. State of Maharashtra** referred supra, in such a case the petitioner is entitled for protection in service. However, will not be entitled for the benefits of reservation for promotion or otherwise.

6. In the light of the above, we pass the following order.

7. The judgment delivered by the respondent No.

2/Committee invalidating the caste claim of the petitioner is upheld and confirmed. The respondent No. 3/employer shall not take any adverse action against the petitioner only on the ground that his caste claim is invalidated. However, the petitioner shall not be entitled for the benefit of any reservation henceforth in any manner, nor the petitioner would be entitled for benefit of reservation in any walk of life. Entry of this order shall be taken in the service book of the petitioner. The petitioner's caste certificate stands cancelled and confiscated.

Rule accordingly made absolute in above terms. No order as to costs.

Sd/-

[A. I. S. CHEEMA, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/April 15