

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

WRIT PETITION NO. 2283 OF 2001

Sanjay s/o. Manga Sadarao	..	Petitioner
Versus		
Tahsildar, Sindkheda, Dist. Dhule and others	..	Respondent

Mr. L.V. Sangit h/f. Mr.V.J. Dixit (Sr. Counsel),
Advocate for the petitioner.
Mr. M.S. Patni, A.G.P. for respondent/State.
Mr.K.D. Bade Patil, Advocate for respondent No.2.
Mr. S.M. Kulkarni, Advocate for respondent No.4.

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

DATED : 09.06.2015

P.C. :-

1. Heard. Perused the impugned order. We do not find any error in it. The Committee in the impugned order after examination of documents furnished by the petitioner came to a conclusion that the petitioner failed to prove that he belongs to "Tokare Koli - Scheduled Tribe". The Committee also observed that even the petitioner's father's school record shows his caste as "Hindu - Koli". In view of this, we are not inclined to hold that the impugned order deserves interference. Nonetheless, the petitioner might get some protection because of following facts.

2. The petitioner was appointed as a Jr. Operator in M.S.E.B. vide order dated 30.07.1994. The order mentioned that in-case reserved class employees do not produce necessary verification certificate, they might face either termination or other suitable legal action. In the caste claim of the petitioner, it is all along stated that he belongs to Scheduled Tribe. The tribe claim was referred to the Committee and the Committee as mentioned above has held that the petitioner did not prove his claim. The question is - whether the petitioner deserves to be dismissed from service? The Full Bench of this Court in the case of Arun s/o. Vishwanath Sonone Vs. State of Maharashtra & Ors., 2015 (1) Mh.L.J.457, has considered *interalia* this aspect and came to a conclusion having regard to the decision of the Supreme Court in the case of State of Maharashtra Vs. Milind & Others, 2001(1) Mh.L.J.(S.C.)1, as under :-

"(d) In terms of the decision in Milind's case, all the appointments that have become final up to 28.11.2000 stand protected subject to the conditions as under :

(i) that upon verification by the Scrutiny Committee, the Caste Certificate produced to secure an appointment, is not found to be false or fraudulent.

(ii) that the appointee shall not take any advantage in terms of promotion or otherwise after 28.11.2000 solely on the basis of his claim as a candidate belonging to any of the backward class

categories in respect of which his claim is invalidated by the Scrutiny Committee, and

(iii) that it shall be permissible for the Competent Authority to withdraw the benefits or promotions obtained after 28.11.2000 as a candidate belonging to backward class category for which the claim has been rejected."

3. The petitioner would also get protection in terms of above observations, provided he gives an undertaking as indicated in the order. We presume that the petitioner is still in service and would be interested in protecting his service.

4. The petition succeeds to the extent of protection to the petitioner's service in terms of above quoted portion of the Full Bench Judgment.

5. Rule made partly absolute in above terms. The writ petition stands disposed of accordingly.

[A.M. BADAR, J.]

[A.V. NIRGUDE, J.]