

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1151/2011

Prashant S/o Mohansingh Jhala
Age 39 years, Occ-Service
R/o N-12, E-110, Hudco,
Aurangabad, Tq. & Dist.
Aurangabad.

..PETITIONER

Versus

- 1] The State of Maharashtra
Through Principal Secretary
Tribal Development Department
Mantralaya, Mumbai-32
- 2] Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
Through its Member Secretary
- 3] Principal Secretary
Co-operation & Textile Department
Maharashtra State, Mumbai
- 4] Commissioner for Co-operation
and Registrar for Co-operative
Societies, Maharashtra State,
Central Building, Pune
- 5] Divisional Joint Registrar,
Co-operative Societies (Audit)
Aurangabad.

[Copies of Respondent No.3 to 5
to be served through office of
Government Pleader, Bombay
High Court, Bench at Aurangabad]

..RESPONDENTS

...
Mr.M.S.Deshmukh,Adv. for petitioner
Mrs.S.A.Dhumal,AGP for respondent State
...

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 9th January, 2015.**

P.C. :

The petitioner assails order of the scrutiny committee invalidating tribe claim of the petitioner as belonging to "Thakur" Scheduled Tribe.

2] Mr.Deshmukh, learned counsel for petitioner on instructions states that he would not agitate against judgment delivered by the Committee, however, petitioner's services be protected as the petitioner is appointed in the year 1999 in view of judgment of the Full Bench of this Court in the case of Arun Vishwanath Sonone V/s State of Maharashtra and others dated 22/12/2014.

3] Mr.Deshmukh, learned counsel submits that the Committee has invalidated Tribe claim only on the ground that sufficient evidence is not available and not on the ground of fraud and because of evidence in the name of his brother.

4] Mr.Patil, learned counsel submits that the claim of the petitioner is invalidated as the basic document in favour of the brother of the petitioner is showing other caste and the petitioner could not prove his case.

5] Full Bench of this Court in the case of Arun Sonone referred supra has held that if a person is appointed prior to the enforcement of the Act No.23/2001 and if the Tribe certificate is invalidated but it is shown that same has not been obtained by fraud then service of such person can be protected. In the present case the Committee has not arrived at the conclusion that the petitioner has fraudulently obtained Tribe Certificate. It is because of the paucity of the evidence the validity could not be proved. In light of the fact that the petitioner has been appointed in the year 1999, the petitioner would be entitled for the protection in service.

6] In light of the above, we have also heard learned AGP who is the employer of the petitioner.

7] Considering above, Writ Petition stands disposed of with direction that the petitioner's services shall not be terminated on the ground that his Tribe claim has been invalidated. The petitioner may be considered for the further service benefits from general category such as promotion etc as if the petitioner is from general category, however, petitioner shall not be considered for any service benefits including that of promotion from reserved category and henceforth no benefit shall be given to the petitioner of Reserved category. Writ Petition accordingly disposed of. No costs.

8] In view of disposal of Writ Petition, Civil Application No.12880/2014 stands disposed of.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.