

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

WRIT PETITION NO.1513 of 2015

Mahesh s/o Waman Sadale,
Age 21 years, Occu: Nil,
r/o Nalegaon, Tq. Chakur,
Dist. Latur.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through it's Secretary.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Deputy Director. (R),
3. The Chief Engineer, (Technical)
Maharashtra State Electricity
Production Corporation Limited (Mahanirmity),
Estraila Batteries Vistarit Imarat
Dharavi Road, Matunga,
Mumbai 400 019

...RESPONDENTS

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Mr. Pratap V. Jadhavar, Advocate for the
petitioner.

Mr.D.V.Tele, AGP for respondent State.

Mr. A.B.Tele, Advocate for respondent no.2.

Mr. S.M.Godsay, Advocate for respondent no.3.

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CORAM: S.S.SHINDE

AND

P.R.BORA, JJ.

DATE : March 17th, 2015

ORAL JUDGMENT: (Per S.S.Shinde, J.)

1. Heard.
2. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the parties.
3. This petition is filed with following prayers:

"B. By issuing appropriate writ, order or direction in like nature, the respondent No.3 give the provisional appointment to the petitioner as Technician Grade III without insisting validity certificate and not to cancel the selection of petitioner.

C. By way of an appropriate writ, order or direction in the like nature thereby directing that, the respondent No.2 scrutiny committee may kindly be to decide the tribe claim of the petitioner as early as possible.

D. By way of an appropriate writ, order or direction in the like nature, the respondent No.3 give the provisional appointment to the petitioner as Technician Grade III without insisting validity certificate and not to cancel the selection of petitioner. "
4. It is the case of the petitioner that he belongs to "Koli Mahadev", which is notified and recognized as Scheduled Tribe, and competent authority issued tribe certificate in favour of the petitioner on 5th December, 2009. As per the advertisement issued on 21st August, 2013, by the respondent authorities, the petitioner made application and, according to the petitioner, he was duly selected by the Selection Committee

for the post of Technician Grade-III in Scheduled Tribe reserved category. Accordingly, respondent no.3 issued letter on 15th January, 2014 to the petitioner stating therein that the petitioner is selected as a Technician, Grade-III in Scheduled Tribe reserved category, and as per the Government policy, he has to submit tribe validity certificate within eight days and then only appointment order can be issued. The petitioner, on 21st January, 2014, submitted proposal with all documents before respondent no.2 Committee. The tribe claim of the petitioner is still pending consideration before respondent no.2 Committee. On 27th January, 2014, the petitioner requested respondent no.3 to give him provisional appointment, however, respondent no.3 turned down the request. Hence, this petition.

5. Learned Counsel appearing for respective parties submit that the issue raised in this petition was considered by the Division Bench of this Court (Coram: B.R.Gavai and M.T.Joshi, JJ.) in the case of **Shrikant s/o Chandrakant Saindane Vs. The State of Maharashtra and others** in Writ Petition No.2136 of 2011 (Aurangabad Bench), dated 25th August, 2011.

6. We have considered the pleadings in the petition,

grounds therein and annexures thereto and the judgment of this Court in the case of Shrikant (cited supra). This Court, in afore stated judgment has considered condition no.7 of Government Resolution dated 5th November, 2009, issued by Respondent No.1 and held that the petitioners therein will be given provisional appointment subject to validation of the tribe claim by the respondent Committee.

7. In the light of discussion hereinabove, we allow this petition and direct respondent no.3 to give provisional appointment to the petitioner subject to outcome of the proceedings pending before respondent no.2 Committee. We also direct respondent no.2 Committee to decide the tribe claim of the petitioner as early as possible, preferably, within eight months from today.

The petition is disposed of in above terms. Rule made absolute accordingly.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

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