

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 1415 OF 2009

GANPAT RAMRAO PARSEWAD

VERSUS

THE STATE OF MAH AND ORS

Advocate for the petitioner: Mr. S. R. Barlinge

AGP for the Respondent State: Mr. S. K. Tope

Advocate for respondent No.2: Mr. A. B. Tele

Advocate for respondent No.3: Mr. V. D. Patnoorkar h/fr Mr. A. R. Rathod

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**CORAM : S. V. GANGAPURWALA &
V. L. ACHLIYA , JJ.****DATE : 6th February, 2015****PER COURT :**

1. Mr. Barlinge, the learned counsel for the petitioner submits that the petitioner was appointed on 15.07.1994 as a peon and today also he is working as peon with respondent no.3. The validation proceedings in respect of tribe claim of the petitioner has been rejected. The learned counsel submits that the same is rejected on the ground of lack of evidence and there is no finding of fraud, misrepresentation or forgery. The learned counsel submits that the petitioner would accept the judgment of the Committee and would not agitate against the same.

2. Mr. Patnurkar, the learned counsel for respondent No.3 accepts that the petitioner has been appointed in the year 1994 as peon and is also working today as peon.

3. We have heard the learned counsel Mr. Tele for the Committee. He submits that the petitioner could not prove his tribe claim. However, accepts that there is no finding of fraud, misrepresentation or forgery.

4. In view of the fact that the judgment of the committee is not agitated, the judgment of the committee would stand upheld. As far as the protection in service is concerned, it is not disputed that the petitioner was

appointed in the year 1994 as peon with respondent No.3 and today also he is working as peon with respondent no.3. In view of the judgment of the Full Bench of this Court in the case of **Arun Vishwanath Sonone Vs. The State of Maharashtra and others** reported in **2015 (1) MLJ 457**, the persons appointed prior to enactment of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance of Verification of) Caste Certificate Act, 2000 are entitled for protection even though the validations proceedings are rejected. The said benefit is not granted if it is a case of fraud, misrepresentation or forgery.

5. In the present case there is no finding of fraud, misrepresentation or forgery. In the light of above, we pass the following order.

6. The judgment of the scrutiny committee invaliding the tribe certificate of the petitioner is upheld.

7. The petitioner shall be entitled for the protection in service though the tribe claim is invalidated, but henceforth, the petitioner will not be entitled to claim any benefit of reservation in any walk of life. Entry of the same shall be taken in the service book. The tribe certificate stand cancelled and confiscated by the Committee. Writ petition disposed of. No costs.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC