

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3566 OF 2001

Smt. Meerabai d/o Handu Borse,
Age-33 years, Occu: Service,
R/o-Samrat Ashok Nagar,
Laxmi Colony, Chhaoni Road,
Aurangabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Social Welfare Department,
Mantralaya, Mumbai,
- 2) The Committee for Scrutiny &
Verification of Tribe Claims,
Aurangabad,
- 3) The Executive Engineer,
Public Works Division
(West) Aurangabad,
- 4) The Assistant Director of
Parks & Gardens,
Aurangabad.

...RESPONDENTS

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Mr.U.R. Awate Advocate h/f. Mr. S.B. Talekar
Advocate for Petitioner.

Mrs.Y.M. Kshirsagar, A.G.P. for Respondent
Nos.1, 3 and 4.

Mr.P.S. Patil Advocate for Respondent No.2.

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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 17TH APRIL, 2015

ORAL ORDER :

1. Mr. Awate, the learned counsel for the Petitioner, on instructions, states that the Petitioner gives up challenge to the Judgment of the Scrutiny Committee invalidating the tribe claim of the Petitioner. The learned counsel submits that the tribe claim has been invalidated on the ground that there is no proper evidence and that in the old record there are some changes found. The learned counsel submits that the alleged writing cannot be attributed to the Petitioner. There is no evidence in respect of the same. The evidence of the head master or the person concerned has not been recorded. Learned counsel relies on the Judgment of the Apex Court in the case of **Sayanna vs. State of Maharashtra and others**, reported in (2009) 10 S.C.C. 268.

2. The learned A.G.P. submits that the Scrutiny Committee has invalidated the tribe claim considering that old record produced by the Petitioner is suspicious and there appears to be manipulation in the record. As such the benefit cannot be given.

3. Mr. Awate, learned counsel further submits that though this Court has granted stay to the Judgment of the Committee in the year 2002, still the Respondents are issuing appointments for six months, after filing the Writ Petition, only on the ground that the Petition is pending. The Petitioner was appointed in December 1999 as a peon and continued as such. The Petitioner is entitled for protection in service as per the Judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone vs. The State of Maharashtra and others**, reported in **2015(1) Mh.L.J. 457**.

4. We have also heard Mr. Patil, learned counsel for Scrutiny Committee.

5. As the challenge to the Judgment delivered by the Scrutiny Committee has been given up, the Judgment of the Committee invalidating tribe claim of the Petitioner is required to be upheld and the same is upheld.

6. It appears that the Scrutiny Committee observed that in old records there is some manipulation. The record in the name of Garbad Lotan Koli of the year 1930, 1933 has been considered where there is an entry of Tokre Koli, however it is written that the same is taken from back entry. The said back entry records the caste as "Koli" only.

7. The said record cannot be attributed to the Petitioner, as the same would be in respect of Petitioner's uncle.

8. Any such act cannot be attributed to the Petitioner and the same is not established that it is the present Petitioner who is guilty of any such acts.

9. The Petitioner is appointed on 28th December 1999, as such is entitled for protection in service 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**, referred supra.

10. In light of above, we pass the following order:-

O R D E R

(A) The Judgment of the Scrutiny Committee invalidating the tribe claim of the Petitioner is upheld.

(B) The Respondent employer shall not take any adverse action against the Petitioner only on the ground that her tribe claim is invalidated.

(C) If otherwise there is no other legal impediment, the Petitioner shall be treated in service since the initial date of appointment i.e. 28th December 1999.

(D) Petitioner shall not be entitled for benefit of reservation for promotion or for any other benefits in service henceforth.

(E) The entry of this order shall be taken in the service book of the Petitioner.

. The Writ Petition accordingly disposed of. Rule accordingly disposed of. No costs.

11. In view of disposal of Writ Petition itself, nothing survives for consideration in the Civil Applications. All pending Civil Applications stand disposed of.

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

asb/APR15

[S.V. GANGAPURWALA, J.]