

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 1832 OF 2015

Vijaysing S/o. Rupsing Patil,
Age 36 yrs, Occ: Police Naik Constable,
R/o. Plot No.13/3, Gut No.3,
Gurudatt Nagar, Pimpala Shival,
Jalgaon, Dist. Jalgaon.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Social Justice Dept.,
Mantralaya, Mumbai 32.
2. The Divisional Caste Certificate
Scrutiny Committee No.2,
Kanushri Towers,
10, Budgujar Plot, Parola Road,
Dhule – 424004.
Through it's Secretary.
3. The Superintendent of Police,
Jalgaon, Dist. Jalgaon.
- 4 Deputy Collector,
Special Land Acquisition Officer,
Jalgaon, Dist. Jalgaon.

... RESPONDENTS

Mr. Pradip R. Patil, Advocate for the Petitioner.
Mr. K.G.Patil, AGP for Respondents/ State.

CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 17th February, 2015.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

1 Rule. Learned AGP waives notice of Rule for all the Respondents. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, the petition is taken up for final hearing.

2 Mr. Patil, learned counsel for the Petitioner submits that the Petitioner is appointed on 9th March, 2000, as a Constable with the Police Department from the reserved class. According to the learned counsel, the caste claim of the Petitioner as belonging to “Rajput Bhamta” Scheduled Caste is invalidated by the Committee vide its judgment and order dated 13th January, 2015. The learned counsel, on instructions from the Petitioner, states that the Petitioner would not hence assail the judgment of the Committee i.e. invalidation of the caste claim. However, the learned counsel submits that the Petitioner was appointed on 9th March, 2000, and there is no finding of fraud, misrepresentation or forgery in the judgment of the Committee. The Petitioner is entitled for the protection in service as is laid down by the Full Bench of this Court in a case of **Arun Vishwanath Sonone Vs. State of Maharashtra and others**, reported in, **[2015(1) Mh.L.J. 457]**.

3 Mr.Patil, learned AGP submits that the Petitioner was appointed as against the reserved category. As the caste claim has been invalidated, the Petitioner's service cannot be protected.

4 We have considered the submissions canvassed by the learned counsel for respective parties. The Petitioner has accepted the judgment of the Committee. As such, the judgment of the Committee would be required to be upheld. However, on perusing the judgment of the Committee, it is manifest that the caste claim of the Petitioner has been invalidated on the ground of lack of evidence and there is no finding of fraud, misrepresentation or forgery as against the Petitioner.

5 In view of the judgment of Full Bench of this Court in the case of *Arun Vishwanath Sonone (supra)*, the Petitioner can be given protection in service.

6 In light of the above, we pass the following order:

- I. The judgment of the Committee dated 13th January, 2015, is upheld.
- II. The Respondents shall not terminate the services of the Petitioner nor shall take any adverse action against the Petitioner only on the ground that his caste claim has been invalidated. However,

henceforth, the Petitioner shall not be given any benefit of reservation in service or in any walk of life. The entry of the same shall be taken in the service book of the Petitioner.

III. The tribe certificate of the Petitioner shall stand cancelled.

IV. Accordingly, the Rule is partly made absolute in above terms. However, no order as to costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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