

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2358 OF 2015

Shaikh Khadeeroddin s/o Shaikh Moizuddin,
Age-57 years, Occu:Driver,
R/o-Ghaus Colony, Dargah Road,
Parbhani, Tq. & Dist-Parbhani.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400032,
- 2) Divisional Caste Scrutiny Committee,
Parbhani, Tq. & Dist-Parbhani,
- 3) The Divisional Controller,
Maharashtra State Road Transport
Corporation, Parbhani.

...RESPONDENTS

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Mr. G.R. Syed Advocate for Petitioner.
Mr. S.A. Ambad, A.G.P. for Respondent
Nos.1 and 2.
Mr. Anand Wange Advocate for Respondent
No.3.

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

DATE : 6TH MAY, 2015

ORAL ORDER :

1. Mr. Syed, the learned counsel for Petitioner submits that the Petitioner was issued notice on 8th January 2015. The Petitioner was collecting other documents to substantiate his caste claim, however before he could collect all the documents, the Respondent employer issued notice of termination to the Petitioner. Learned counsel submits that the Petitioner has got the original caste certificate issued by the Executive Magistrate. According to the learned counsel, the Petitioner is appointed in the year 1987 as a driver after following due selection process and till the date of termination, Petitioner was working as driver with Respondent No.3.

2. Learned counsel for Respondent No.3 submits that since two years the Petitioner was

directed to submit the caste certificate so as to refer the proposal to the Committee. The Petitioner did not submit the same. As such the Respondent No.3 did not have any option but to terminate his services as the Petitioner was appointed from reserved category.

3. We have heard the learned A.G.P. also.

4. It is now stated that the Petitioner has original caste certificate. The Petitioner shall submit the original caste certificate with Respondent No.3 employer within seven days from today. On receipt of original caste certificate and such other documents as would be submitted by the Petitioner, the Respondent No.3 employer shall refer the proposal to the Scrutiny Committee. The Scrutiny Committee, on receipt of the said proposal, shall decide the validation proceedings on its own merits, expeditiously.

5. As the claim of the Petitioner has not been invalidated and Petitioner is appointed in the year 1987, we quash and set aside the order of termination and direct Respondent No.3 to reinstate the Petitioner on the post on which he was working on the date of termination. However, the Petitioner will not be entitled for any back-wages from the date of termination till the date of this order.

6. It is made clear that in case the Petitioner does not submit the original caste certificate to Respondent No.3 employer within seven days as directed, the impugned order of termination shall subsist. It is only in case the Petitioner submits the original caste certificate within seven days to Respondent No.3 employer, the order of termination shall be deemed to be set aside.

7. In case the said caste certificate as

directed above is submitted, though the Petitioner will not be entitled for any back-wages since the date of his termination till the date of this order, the said period shall be counted for continuity in service.

8. The Writ Petition disposed of, accordingly.

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

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[S.V. GANGAPURWALA, J.]