

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

WRIT PETITION NO. 2193 OF 2014

Shamrao Ambar Koli .. Petitioner

Versus

The State of Maharashtra and Another .. Respondents

Shri V. U. Jadhav, Advocate for the Petitioner

Shri P. N. Mule, A. G. P. for the Respondent No. 1

Shri U. B. Bondar, Advocate for the Respondent No. 2

Shri A. B. Tele, Advocate for the Added Party

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

DATE : 04TH MARCH, 2015.

PER COURT :

- 1) Leave to add Committee as a party.
- 2) Issue notice to the added party. Mr. Tele the learned counsel waives notice for added party.
- 3) Mr. Jadhav the learned counsel for petitioner submits that, the Tribe claim of the petitioner has been invalidated by the

Committee. The petitioner had assailed the said judgment before this Court at its Principal Seat vide Writ Petition No. 6827 of 2004. This Court vide order dated 17.03.2005 allowed the petitioner to withdraw the petition with liberty to make representation to the employer for protection of his service. The learned counsel submits that, the petitioner is still in service. The petitioner is appointed on 16.06.1995 as a Primary Teacher and today also he is working as Primary Teacher. The Tribe claim of the petitioner has been invalidated by the Committee only on the ground of lack of evidence and there is no finding of fraud, misrepresentation or forgery against the petitioner. The learned counsel submits that, the petitioner is entitled for protection in service in the light of judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone V/s State of Maharashtra and Others** reported in **2015 (1) Mh. L. J. 457.**

4) Mr. Tele the learned counsel for the Committee, upon going through the judgment delivered by the Committee accepts that, the Tribe claim has been invalidated on the ground of lack of evidence and there is no finding of fraud, misrepresentation or forgery against the petitioner.

5) Mr. Bondar the learned counsel for the respondent/ employer submits that, as petitioner is appointed from the reserved category and his Tribe claim is invalidated the petitioner can not be allowed to continue in service upon invalidation of his Tribe claim.

6) We have considered the submissions canvassed by the learned counsel for respective parties. We have also gone through the judgment delivered by the Committee invalidating the Tribe claim of the petitioner. Upon perusal of the said judgment it is explicitly clear that, the Tribe claim of the petitioner has been invalidated only on the ground of lack of evidence and the evidence produced was not found to be sufficient by the Committee. There is no finding of fraud, misrepresentation or forgery against the petitioner. The petitioner has also not been granted any promotional benefits after the year 2001. In view of the judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone V/s State of Maharashtra and Others** referred supra the petitioner can be granted protection in service upon certain conditions.

7) In light of above, we pass the following order -

ORDER

A) The respondent/employer shall not terminate the services of the petitioner or shall not take any adverse action against the petitioner only on the ground that, his Tribe claim is invalidated.

B) The petitioner henceforth shall not be entitled for any benefit of reservation in service or in any walk of life.

C) The entry of the same shall be taken in the Service Book of the petitioner.

D) The Tribe claim of the petitioner shall stand cancelled and confiscated by the Committee.

8) Writ Petition is accordingly disposed of. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]