

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

**WRIT PETITION NO.2916 of 2015**

Bhagwan S/o Yamaji Gawale  
Age 31 years, Occu.: Service,  
At Kota Koli, Post Jalgaon,  
Tq. Bhokardan, Dist. Jalna.

**...PETITIONER**

**VERSUS**

1. The State of Maharashtra,  
Tribal Development Department,  
Through its Secretary,  
Mantralya, Mumbai - 32
2. The Scheduled Tribe Certificate,  
Scrutiny Committee, Aurangabad,  
Through its Deputy Director/Member.
3. The Chief Executive Officer,  
Zilla Parishad Jalna.
4. The Education Officer (Primary),  
Zilla Parishad, Jalna.

**...RESPONDENTS**

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Mr. Pratap V.Jadhavar, Advocate for petitioner.  
Mr. V.H.Dighe, AGP for respondent State.  
Mr. A.B.Tele, Advocate for respondent no.2.  
Mr. S.S.Tope, Advocate, for respondent nos. 3 and  
4.

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**CORAM: S.S.SHINDE**

**AND**

**P.R.BORA, JJ.**

**DATE :March 23rd, 2015**

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**JUDGMENT:** (*Per P.R.Bora, J.*)

1. Heard. Rule. Rule made returnable and heard forthwith with the consent of parties.

2. Shri Jadhavar, learned Counsel for the petitioner, submits that the petitioner is appointed as Shikshan Sevak vide order dated 7th August, 2009, and had accordingly joined to the said post and has also completed three years' period as Shikshan Sevak on 7.8.2012. Petitioner claims himself to be belonging to Koli Malhar Scheduled Tribe. Learned Counsel submits that respondent no.3 has forwarded proposal for verification of tribe claim of the petitioner to the Scrutiny Committee i.e. respondent No. 2 and the said claim is not yet adjudicated. Learned Counsel further submitted that though respondent no.3 has forwarded the proposal of the petitioner to the Education Officer for continuation in service, and for grant of pay scale as an Assistant Teacher, the same has not been accepted on the ground that the petitioner has not yet submitted tribe validity certificate.

3. Learned Counsel Mr. A.B.Tele appearing for respondent No.2 Committee, concedes that the tribe claim of

the petitioner is received to the Committee for verification and it is still pending and the Committee may require some time to decide the same. Learned A.G.P. submitted that since the petitioner has been appointed against reserved post, as the validity is not produced, he is not paid the scale of the Assistant Teacher.

4. After having noted the facts as above, it is quite clear that the petitioner cannot be blamed for non deciding of his tribe validity by respondent No.2 Committee. The petitioner is deemed to be an Assistant Teacher on successful completion of three years' period as Shikshan Sevak. There is no impediment for respondent nos.3 and 4 to give pay scale of Assistant Teacher to the petitioner, in case the petitioner satisfies all other legal requirement. Said pay scale cannot be refused only on the ground that validation proceedings are pending. Of course, the appointment of the petitioner, either as Shikshan Sevak, or Assistant Teacher would, certainly, be subject to the decision of the tribe validity by the Committee in the validation proceedings.

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

## ORDER

a) Respondent No.2 Committee shall decide the tribe claim of the petitioner expeditiously and preferably within a period of eight months from the date of this order.

b) Respondent Nos.3 and 4 shall not withhold payment of salary to the petitioner in the pay scale of Assistant Teacher only on the ground that validation proceedings in respect of his tribe claim is still pending, if the petitioner is otherwise eligible and is satisfying the other requirements.

c) Respondent No.3 and 4 shall pay salary, as admissible to the Assistant Teacher, to the petitioner along with arrears within a period of six months from the date of this order.

Rule made absolute in above terms.

**([P.R.BORA)**  
**JUDGE**

**(S.S.SHINDE)**  
**JUDGE**

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