

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

WRIT PETITION NO.4981 of 2015

Virsang s/o Mahaling Swami
Age :- 50 years, Occ.: Service
as Junior Engineer,
Maharashtra State Road Transport
Coropration Division, Beed,
R/o C/o Ashirwad Building,
Vishal Nagar, Barshi Road, Latur,
Taluk and District Latur.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Social Justice Department,
Mantralaya, Mumbai - 400 032.
2. The Scheduled Castes, Vimukta Jatis,
Nomadic Tribes, Other Backward Class
& Special Backward Class Divisional
Caste Certificate Scrutiny Committee,
Committee No.2, Aurangabad Division,
Latur, District Latur,
Through its Member Secretary.
3. Maharashtra State Road Transport
Corporation, Central Office,
Maharashtra Vahatuk bhavan,
Dr. Anandrao nair Marg,
Mumbai 400 008.
Through its Deputy General manager
(P & IR).
- 4) The Divisional Controller,
Maharashtra State Road Transport
Corporation Division, Latur,
Taluka and District Latur.
- 5) The Divisional Controller,
Maharashtra State Road Transport
Corporation Division, Beed,
Taluka and District Beed.

...RESPONDENTS

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Mr.G.V.Sakolkar and Mr. P.G.Rodge, Advocate for Petitioner;
Mr. S.R.Yadav Lonikar, AGP for Respondent / State;
Mrs. R.D.Reddy, Advocate for Respondent No.3;
Mr.D.S.Bagul, Advocate for Respondent No.5.
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**CORAM: S.S.SHINDE
AND
P.R.BORA, JJ.**

DATED : 22.12.2015.

ORAL JUDGMENT : (PER S.S.SHINDE, J.)

1) Rule. Rule made returnable forthwith and heard finally by consent of the learned Counsel appearing for the respective parties.

2) Learned Counsel appearing for the petitioner has tendered across the Bar an undertaking stating therein that the petitioner or his family members will not avail benefits of Scheduled Caste category henceforth and also the petitioner will not claim back-wages or arrears of salary since the date of termination i.e. 29.06.2011 till reinstatement. It is further stated in the said affidavit that the petitioner would not claim any service benefit meant for Scheduled Caste category. Said undertaking is taken on record.

3) It is the case of the petitioner that he was appointed as Building Inspector by vide order dated 05.10.1989 issued by respondent No.4 from Scheduled Caste category

(Bedajangam). Thereafter, in the year 1996, the petitioner came to be promoted to the post of Junior Engineer by an order No.94/1996 issued by respondent No.3 against the post reserved for Scheduled Caste. After completion of probation period on the said post, services / appointment of the petitioner on the post of Junior Engineer came to be confirmed.

It is the case of the petitioner that, by letter dated 06.03.2009, the respondent No.4 directed the petitioner to submit proposal for verification of caste claim of the petitioner with all relevant documents. Accordingly, petitioner submitted his proposal in prescribed form with all the documents.

4) The Caste Scrutiny Committee invalidated the caste claim of the petitioner. Being aggrieved by the said decision, petitioner filed writ petition No.11678/2010 in the High Court. The High Court by its Judgment and order dated 08.06.2011 dismissed the said writ petition. The Petitioner filed Review Petition for reviewing the order dated 08.06.2011. The said Review Petition came up for hearing on 27.02.2015. During the course of hearing of the Review Petition, the learned Counsel for the petitioner made a statement that, the petitioner does not wish to challenge the decision of the Scrutiny Committee and prayed for protection of service. The Review Petition was disposed of with liberty to the petitioner to file appropriate

petition seeking relief of reinstatement, hence this petition.

5) Learned Counsel appearing for the petitioner placed reliance on the reported judgment of full Bench of this Court in the case of **Aarun Vs. State of Maharashtra, 2015 (1) Mh.L.J., 457** and submits that, in para 75(i) of the said judgment, it is held that, mere invalidation of the caste claim by the Scrutiny Committee would not entail the consequences of withdrawal of benefits or discharge from the employment or cancellation of appointments that have become final prior to the decision in Milind's case on 28.11.2000.

6) The learned Counsel appearing for the respondent Nos. 3 and 4, on instructions, submits that, there are three vacant posts of Junior Engineer.

7) In the light of submissions made across the Bar and in view of undertaking submitted by the petitioner, if the facts of the case are examined in the light of the judgment in case of **Aarun (supra)** and in particular para 75 and 76, the petition deserves to be allowed in part.

8) For the reasons aforesaid, the petition is partly allowed. The impugned order of termination is set aside. The Respondents are directed to reinstate the petitioner in service within period of four weeks from today, with continuity of

service. However, neither the petitioner, nor his progeny would henceforth claim the concession / benefits meant for the Scheduled Tribes. The Petitioner, shall not be entitled to the back-wages or arrears of salary from the date of his termination till the date of his reinstatement.

. Rule is made absolute in above terms, with no order as to costs.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

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S.P.Rane