

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

WRIT PETITION NO.3880 OF 1999 WITH
CIVIL APPLICATION NO.8323 OF 2006 WITH
CIVIL APPLICATION NO.5002 OF 2015 WITH
CIVIL APPLICATION NO.5003 OF 2015

Chandrakant s/o Jagannath More
Died, through L.Rs.

1. Savita Chandrakant More
Age 58 years, Occ. Household.
2. Shyamsundar s/o Chandrakant More,
Age 29 years, Occ. Service.
3. Abhijit s/o Chandrakant More,
Age 23 years, Occ. Student
4. Yogita Sunil Dahire,
Age 34 years, Occ. Household

Nos.1 to 4 R/o C/o Sunil Dahire,
Flat No.201, 8, Gangasavitri Apartments,
Near Tukaram Hall, Suyog Nagar,
Ring Road, Nagpur – 15

5. Madhavi Harshad Thakur,
Age 39 years, Occ. Household,
R/o L-604, Yash Paradise,
Sector 8-A, Aairoli,
New Mumbai – 400 708

... PETITIONERS

VERSUS

1. The State of Maharashtra
(Copy to be served on the
Govt. Pleader, High Court of
Judicature of Bombay,
Bench at Aurangabad)

2. The Committee for Scrutiny and Verification of Tribe Claims, Nagpur.
3. The Dy. Commissioner of Sales Tax, Aurangabad Division, Aurangabad. ... RESPONDENTS

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Shri S.R. Barlinge, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
Shri K.D. Bade Patil, Advocate for respondent No.2
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CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

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

1. Mr. Barlinge, learned counsel for the petitioner states that, the deceased petitioner has assailed the order rejecting his tribe claim as belonging to Thakur – Scheduled Tribe. The learned counsel submits that, during the pendency of the petition, the petitioner has died on 24.6.2011. It is only when the matter was listed for final hearing and the Advocate tried to contact the deceased petitioner, the applicants got knowledge of the pendency of the Writ Petition. The learned counsel submits that, after invalidation of the tribe claim, the deceased petitioner was reverted. Against the said order, the deceased petitioner

had filed Original Application before the Maharashtra Administrative Tribunal. The Tribunal granted stay to the order of reversion and the petitioner continued in service on the post which he was enjoying.

2. The learned counsel submits that the deceased petitioner is entitled for for protection in service.

3. The learned counsel for petitioner submits that, the tribe claim of the deceased petitioner is invalidated on the ground of lack of evidence.

4. Mr. Bade Patil, learned counsel accepts the fact that the tribe claim has been invalidated on the ground of lack of evidence and there is no finding of any fraud or misrepresentation.

5. We have also heard learned A.G.P., who submits that, as the tribe claim is invalidated, the deceased petitioner is not entitled for any protection in service.

6. We have considered the submissions canvassed by learned counsel for the respective parties. The Committee, while

invalidating the tribe claim of the deceased petitioner, has observed that there is lack of evidence and there is no finding of fraud or misrepresentation. In view of the judgment in a case of Arun Vishwanath Sonone Vs. State of Maharashtra, reported in 2015(1) Mh.L.J. 457, the petitioner is entitled for protection in service.

7. As the petitioner is dead, no order can be passed in favour of the petitioner with regard to issuance of validity certificate or otherwise. The present applicants/ legal heirs of the deceased petitioner can make independent applications, which can be considered by the authorities on its own merits.

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

9. The respondent employer shall not take any adverse action against the deceased petitioner as far as service benefits are concerned only on the ground that the tribe claim is invalidated.

10. In case the applicants/ legal heirs of the deceased petitioner make any application for issuance of tribe certificate and/or their claim is referred for validation, the same shall be

considered on its own merits in accordance with law and as per the evidence available on record, without being influenced by the judgment of the Committee assailed in the present Writ Petition.

11. Writ Petition accordingly disposed of. Rule disposed of in above terms.

12. In view of disposal of the Writ Petition, Civil Application No.8323/2006 does not survive and same stands disposed of. Civil Application Nos.5002/2015 and 5003/2015 are allowed.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)