

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

**WRIT PETITION NO.5901 OF 2006**

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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Mr.A.S.Golegaonkar, advocate for the petitioner.  
 Smt.S.D.Shelke, Asstt. Govt. Pleader for the State.  
 Mr.K.D.Bade Patil, advocate for Respondent No.2.  
 Mr.P.N.Jain, advocate holding for Mr.D.S.Bagul,  
 advocate for Respondent No.5.

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

**Date : 20.01.2015.**

**PER COURT :**

1. Heard.
2. Leave to amend.
3. Mr.Golegaonkar, learned counsel submits that the petitioner was appointed as a Artisan "A" (Blacksmith) in the year 1996 by the Respondent No.5. The learned counsel submits that the Tribe claim of the petitioner has been invalidated on the ground that the petitioner could not prove his case. The learned counsel submits that there is no finding of fraud on the part of the petitioner in obtaining the Tribe certificate. It is only because of lack of evidence, the claim has been invalidated. The learned counsel submits that pursuant to the invalidation of the Tribe claim of the

petitioner, the Respondent employer terminated the services of the petitioner vide order dated 19.8.2006. According to the learned counsel, though petitioner is not in a position to prove his caste, he is entitled for the protection in service in view of the judgment of the Full Bench of this Court in a case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** reported in **2015 (1) Mh.L.J.457**. The learned counsel submits that necessary protection be given to the petitioner in service.

4. Mr.Bade Patil, learned counsel for the Committee accepts the fact that the claim has been invalidated, however, the Committee has not come to the conclusion of any fraud on the part of the petitioner.

5. Mr.Bagul, learned counsel for the employer submits that as the petitioner was from the reserved category and the Tribe claim of the petitioner was invalidated, the services of the petitioner were rightly terminated. No illegality has been committed by the Respondent employer while passing the order of termination.

6. The petitioner has also filed an undertaking in this Court, stating that the petitioner be reinstated without back wages and he would henceforth not claim benefit of reservation.

7. The Full Bench of this Court in a case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra has held that if a person is employed prior to

enactment of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of ) Caste Certificate Act, 2000 and the Committee though invalidated the Tribe claim, however, not on the ground of fraud on the part of the said employee then the employee is entitled for protection in service. The petitioner though has challenged the judgment of the Committee has subsequently filed an undertaking to this Court that he would not claim any benefits of reservation. Mr.Golegaonkar, learned counsel on instructions submits that the petitioner would not assail the said judgment vide the present Writ Petition and gives up the said challenge to the judgment of the Committee.

8. Considering the judgment of the Full Bench of this Court in the case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra, we pass the following order :

a) The order of termination passed by Respondent No.5 employer dated 19.8.2006, is quashed and set aside. The Respondent employer shall reinstate the petitioner on the post on which the petitioner was holding on the date of termination. However, the petitioner will not be entitled for any back wages till the date of reinstatement, however, will be entitled only for

continuity in service. The petitioner henceforth shall not claim benefit of reservation for promotion or for any other purpose. The entry of the same shall be taken in the service book of the petitioner. The petitioner shall submit his original Tribe certificate to the Committee within four (4) weeks from today, if not submitted.

b) The Writ Petition is accordingly disposed of with aforesaid directions and observations. No costs.

**( V . L . ACHLIYA, J . )**

**( S . V . GANGAPURWALA, J . )**

Dt..20.01.2015.  
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