

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 6631 OF 2007

WITH CIVIL APPLICATION NO. 12549 OF 2013 IN WP/6631/2007

VANDANA KACHESHWAR PAWAR

VERSUS

THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicants : Mr. Golegaonkar Anil S.

AGP for Respondents-State: Mr. D. B. Bhange

Advocate for Respondent No.2: Mr. A. B. Tele

Advocate for respondent Nos. 5 and 6: Mr. U. K. Patil

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**CORAM : S. V. GANGAPURWALA &
V.K. JADHAV, JJ.****DATE : 20th February, 2015****PER COURT :**

1. Mr. Golegaonkar, the learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher with the Respondent Municipal Corporation on 22.06.1999 from reserved category of Scheduled Tribe. Tribe certificate of the petitioner was referred to the Committee for validation. The Committee invalidated the tribe claim of the petitioner, however, only on the ground of lack of evidence. There is no finding of fraud, misrepresentation or forgery as against the petitioner. In view of judgment of the Full Bench of this Court in the case of **Arun Vishwanath Sonone Vs. The State of Maharashtra and others** reported in **2015 (1) MLJ 457** the petitioner is entitled for protection in service.

2. Mr. Tele, the learned counsel for the Committee submits that the tribe claim of the petitioner has been invalidated however, there is no finding of fraud, misrepresentation or forgery. Mr. Patil, the learned

counsel for the Municipal Corporation submits that the petitioner is appointed from the reserved category. His tribe claim is invalidated. As such, services of the petitioner are rightly terminated.

3. Date of appointment of the petitioner as Assistant Teacher i.e. 22.06.1999 is not disputed. The petitioner is appointed from the reserved category and his tribe claim has been invalidated. It is also not a matter of dispute that the Committee has invalidated the tribe claim due to lack of evidence and there is no finding of fraud, misrepresentation or forgery against the petitioner.

4. In view of the judgment of the Full Bench of this Court in the case of Arun Sonone referred supra, the petitioner can be granted protection in service, however henceforth, the petitioner will not be entitled for benefit of any reservation in service or in any walk of life.

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

- i. Order of the Committee invalidating the tribe claim of the petitioner is upheld.
- ii. The order terminating services of the petitioner is quashed and set aside. The respondent employer shall reinstate the petitioner on his original post, however, without any back wages from the date of termination till the date of this order.
- iii. Services of the petitioner since the date of appointment shall be counted for the propose of continuity in services and consequential benefits.

- iv. Entry of this order shall be taken in the service book of the petitioner. The original tribe certificate shall stand cancelled and confiscated by the Committee.
- v. Rule is accordingly made partly absolute. Writ petition disposed of. No costs. Civil also stands disposed of.

(V.K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC