

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5929 OF 2015

Shankar s/o Narayan Tope, Aged 25
years, Occupation Service, Resident of
Nitur, Taluka Nillanga, District Latur

Petitioner

V E R S U S

- 1 The State of Maharashtra, Tribal
Development Department, Through its
Secretary Mantralaya, Mumbai – 32
- 2 The Scheduled Tribe Certificate,
Scrutiny Committee, aurangabad,
through its Deputy Director/Member
- 3 The Deputy Director, Health Service,
Health Department, Akola Mandal,
Akola, Taluka and District Akola
- 4 The Medical Superintendent, Rural
Hospital, Karanji, Taluka Kelapur,
District Yawatmal

Respondents

Mr. Pratap V. Jadhavar, Advocate for the petitioner
Mr. S.K. Kadam, A.G.P. for respondent nos.1,3 & 4/State
Mr. P.S. Patil, Advocate for respondent no.2

**CORAM : A. V. NIRGUDE &
A. M. BADAR, JJ.**

DATE : 13th JULY, 2015

ORAL JUDGMENT : [Per A.M. BADAR, J.]

1. Heard the learned counsel for the parties.

2. Rule. Rule made returnable forthwith. By consent of the parties, this petition is taken up for final hearing and heard finally.

3. By this petition, the petitioner, who is in employment of respondent nos.3 and 4 as Pharmacy Officer is challenging the letter dated 14th January, 2015, issued by respondent no.3 thereby threatening termination of his services for want of validity certificate.

4. Learned counsel for the petitioner pointed out that after employment of the petitioner with respondent no.3 Deputy Director, his tribe certificate was sent for validation to respondent no.2-Scrutiny Committee. However as yet his tribe claim is not validated by respondent no.2-Scrutiny Committee. Learned counsel for the petitioner further contended that the employer is threatening termination of services of the petitioner due to non-submission of validity certificate.

5. Learned A.G.P. for the State has contended that despite lapse of 10 months period, the petitioner failed to submit Validity Certificate though he was recruited on the post reserved for Scheduled Tribe candidate. The learned counsel for respondent no.2 – Scrutiny Committee contended that the tribe claim of the petitioner is under scrutiny.

6. Considering the fact that the petitioner has furnished Tribe Certificate and on the basis of that certificate he was recruited in the employment of the State and that the State has already forwarded the tribe claim of the petitioner for scrutiny, we are of the considered opinion that the services of the petitioner cannot be terminated unless and until his tribe claim is decided. It is not within power of the petitioner to get his tribe claim decided within ten days as required by his employer. The petitioner has already sent representations to respondent no.2-Scrutiny Committee for early disposal of his tribe claim. As such, the following order:-

O R D E R

1] Respondent no.2 - Scrutiny Committee is directed to decide Tribe claim of the petitioner after following due process of law within a period of one year from today. Till then, other respondents are restrained from taking any coercive action against the petitioner only on the ground that he has not furnished validity certificate issued by respondent no.2-Scrutiny Committee. Needless to state that the respondents shall be free to take action as per law if required after decision of respondent no.2-Scrutiny committee.

2] Rule made absolute in above terms.

3] No order as to costs.

(**A.M. BADAR, J.**)

(**A.V. NIRGUDE, J.**)

SRM/13/7/15