

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

WRIT PETITION NO. 6292 OF 2015

RUPSING SADA THOKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S.C. Yeramwar
AGP for Respondents: Mr. K.M.Suryawanshi
Advocate for Respondents : Mr. A.V. Deshmukh

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: June 24, 2015

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

1. Learned counsel for the petitioner seeks leave to delete prayer clause 'B'. Leave to delete prayer clause 'B' granted at the risk of the petitioner. Learned counsel submits that petitioner is accepting the judgment of the Committee and is not assailing the same.

2. Issue notice to respondents. Learned AGP waives notice for respondents No.1 and 2. Mr. A.V. Deshmukh learned counsel waives notice for respondent No.3.

3. Mr. Yeramwar, learned counsel for the petitioner states that, petitioner is appointed as an assistant teacher from VJ-A category, however, validation proceedings are rejected. The petitioner is not assailing the judgment of the committee and accepts the judgment of the Committee. He is only seeking protection in service. According to the learned counsel, while rejecting validation proceedings the Committee has rejected it only on the ground that petitioner did not have sufficient

evidence to prove his caste claim as belonging to 'Rajput Bhamta – Vimukta Jati (A)' community. There is no allegation of playing any fraud, mis-representation or forgery. Learned counsel relies on the judgment of Full Bench of this Court in case of “**Arun Vishwanath Sonone Vs. State of Maharashtra reported in 2015 (1) Mh.L.J.457.**”

4. Mr. Deshmukh, learned counsel for respondent no.3 submits that, petitioner was appointed from the reserved category. As his validation proceedings are rejected petitioner is not entitled for benefit of protection in service in view of Section 10 of The Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000.

5. We have heard the learned AGP.

6. It is not disputed that petitioner is appointed on 13.6.1990 with the respondent No.3 and is working as Assistant Teacher. Today also he is working as Assistant Teacher. Petitioner states that, petitioner has given up his challenge to the judgment of the Scrutiny Committee in the validation proceedings and is only seeking protection in service. Petitioner also states that, petitioner was never promoted after the year 2000.

7. We have gone through the judgment of the Committee. Committee has nowhere held that petitioner has played fraud and is guilty of mis-representation or forgery. Only because sufficient evidence was not produced, claim of petitioner is rejected. Under such circumstances in view of the judgment of this Court in 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. In light of that, we pass following order.

O R D E R

I] The Respondents shall not terminate the services of the petitioner only on the ground that, his caste claim is invalidated, however, petitioner shall not be entitled for benefit of reservation in service or any walk of life.

Ii] Entry of this order shall be taken in the service book of the petitioner.

Iii] Caste certificate of the petitioner shall stand confiscated and cancelled.

8. Writ petition accordingly stands disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-