

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

WRIT PETITION NO.7284 OF 2014

Ramchandra Namdeo Wagh,
Age 48 years, Occ. Service,
R/o Plot No.87, Rajnagar,
Devpur, Dhule, District Dhule

... PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary
Tribal Development,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Nandurbar Region, Nandurbar,
District Nandurbar.
3. The Divisional Controller,
Maharashtra Transport Corporation,
Thane Division, Thane.
4. The Depot Manager,
Maharashtra State Transport
Corporation (M.S.R.T.C.),
Bhiwandi, District Thane.

(Respondent No.1 to be served
through Govt. Pleader, High Court
of Bombay, Bench at Aurangabad)

(Respondent No.2 to be served
through Standing Counsel appearing
for Caste Scrutiny Committee)

... RESPONDENTS

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Shri A.S. Bayas, Advocate for petitioner
Shri S.A. Ambad, A.G.P. for State
Shri A.B. Tele, Advocate for respondent No.2
Shri D.S. Bagul, Advocate for respondents No.3 & 4
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CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 29th April, 2015.

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

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. Mr. Bayas, learned counsel for the petitioner states that the petitioner was appointed as a Driver with the respondent - M.S.R.T.C. on 22.5.1999. The learned counsel submits that the tribe certificate of the petitioner as Tokre Koli - Scheduled Tribe was referred to the Committee for validation. During the pendency of the said proceedings, the petitioner had given up his claim as that of Scheduled Tribe category and submitted the certificate of S.B.C. category. The said S.B.C. certificate was also sent by the employer to the Committee for validation. The petitioner's S.B.C. certificate as belonging to Koli - S.B.C. is validated by the Committee vide its order dated 29.11.2013. At

that time, the petitioner had not received the judgment dated 26.6.2013, invalidating the tribe claim of the petitioner as Tokre Koli - Scheduled Tribe. The learned counsel submits that, it is as per the demand of the employer, the petitioner had submitted the S.B.C. certificate and the same was also sent for validation. The learned counsel submits that, in view of the Government Resolution dated 18.5.2013, so also the judgment of the Full Bench of this Court in the 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 spite of validation of the S.B.C. certificate in November 2013, the petitioner was terminated in May 2014.

3. Mr. Bagul, learned counsel for the respondent employer states that the petitioner had been employed on his representation that he belongs to S.T. category. The claim of the petitioner as belonging to S.T. category has been invalidated. The action is rightly taken by the employer in terminating the services of the petitioner. The petitioner could not prove the said certificate which was obtained by him is from the proper authority. The S.B.C. certificate is subsequent in point of time. The petitioner cannot be entitled for the benefit of S.T. category and protection in service.

4. We have also heard Mr. Tele, learned counsel for the Committee and the learned A.G.P.

5. Mr. Bayas, the learned counsel for petitioner, on instructions, states that, the petitioner has given up his claim of Scheduled Tribe. As such, the judgment of the Committee invalidating the tribe claim of the petitioner as Tokre Koli is required to be upheld and confirmed.

6. It is also matter of record that the S.B.C. certificate of the petitioner as belonging to Koli - S.B.C. is validated in November 2013. The same is in consonance with the Government Resolution.

7. Considering the above, we quash and set aside the order of termination. However, the petitioner will not be entitled for back wages from the date of termination till the date of this order.

8. In the result, we pass the following order :

9. The order of termination is quashed and set aside.

The respondent - employer shall reinstate the petitioner in service on his original post. However, the petitioner will not be entitled for back wages from the date of termination till the date of this order. However, the petitioner will be entitled for continuity in service. The petitioner shall not be considered for promotion or for any other benefit from S.T. category. His tribe certificate as Scheduled Tribe stands cancelled and confiscated. The entry of the same shall be taken in the Service Book of the petitioner. Writ Petition accordingly stands disposed of. Rule accordingly made partly absolute.

10. As the order of the Committee is passed in absence of the petitioner, adverse action against the petitioner may not be taken on the basis of the said judgment.

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

(S.V. GANGAPURWALA, J.)