

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

WRIT PETITION NO. 7486 OF 2015

Shyamkant Dajmal Shrirao
Age 45 years,
occ. Service as Assistant Professor
In Abhay Yova Kalyan kendra Sanchalit
Mahila Mahavidyalaya,
Anmol Nagar
Deopur, Dhule
r/o 77, Vidyut Prabha Colony,
Gondur Road, Deopur,
Dhule

.. PETITIONER

VERSUS

- 1 The State of Maharashtra
 Through the Secretary
 Higher and Technical Department,
 Mantralaya, Mumbai 32.
- 2 Abhay Yuva Kalyan Kendra, Dhule
 c/o Abhay Accident Hospital
 Badgujar Plot, Parola road,
 Dhule,
 Through its President
- 3 Abhay Yuva Kalyan Kendra
 Mahila Mahavidyalaya,
 Through its Principal
 Anmol nagar, Deopur,
 Dhule.
- 4 The Scheduled Tribe Scrutiny Committee
 Through its standing Council High Court
 Bombay bench at Aurangabad.
- 5 North Maharashtra University, Jalgaon
 Umavi nagar, Jalgaon 425 001
 Through its Registrar
 Through its standing Council high Court
 Bombay bench at Aurangabad.

.. RESPONDENTS

Mr. D.R. Irale Patil, advocate for petitioner.
Mr. S.G. Karlekar, AGP for the State.
Mr. A.U. Deshpande, advocate for respondents 2 and 3.
Mr. K.D. Bade Patil, advocate for respondent no. 4.

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**CORAM : R.M. BORDE &
P. R. BORA, JJ.
DATE : 28th OCTOBER, 2015.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioner is objecting to the order of termination of service issued by the management on 11.06.2014. Petitioner, on the strength of caste certificate issued in his favour on 26.05.1984, certifying that he belongs to Tokre Koli Scheduled Tribe, secured employment as a lecturer with respondent no. 2 institution on 23.07.1993. The university has also accorded approval to the appointment of petitioner as lecturer. By virtue of the circular issued by the Government, it was mandatory for the petitioner to secure validation certificate from the competent Scrutiny Committee in respect of his caste / tribe status. Caste certificate issued in his favour was referred for verification to the Scrutiny Committee. The Scrutiny Committee, initially directed invalidation of the caste certificate issued in favour of petitioner. However, petitioner approached this Court challenging said decision and, in pursuance to the decision rendered by this Court, the matter has been remitted to the Scrutiny Committee for re-consideration and, the proposal in respect of validation of caste certificate issued in favour of petitioner is stated to be pending with the Scrutiny Committee. Petitioner makes a grievance that during the pendency of claim before the Scrutiny

Committee in respect of validation of caste certificate, his employer i.e. respondents 2 and 3 have proceeded to direct termination of his services vide letter dated 11.06.2014. Petitioner states that he does not propose to press the claim for verification of his caste certificate by the Scrutiny Committee and, would be satisfied if he is permitted to claim benefits as a member belonging to Special Backward Castegory i.e. Koli caste. Petitioner is possessed of certificate issued by the Sub-Divisional Officer certifying that he belongs to Koli caste which is included in Special Backward Category. Petitioner, on the strength of the Government policy declared on 21.10.2015, claims certain protection since he has been appointed way back in the year 1993. Full Bench of this Court in the matter of Arun Vishvnath Sonone Vs. The State of Maharashtra and others reported in **2015(1) M.L.J. 457** has observed that the employees appointed prior to the year 2001 i.e. the date of enforcement of the Act of 2000, would be entitled to claim certain protection. In the instant matter, there is no allegation against the petitioner that he has fraudulently claimed benefits admissible to the Scheduled Tribe category. Petitioner has tendered undertaking to the effect that he relinquishes his claim based on the tribe certificate certifying that he belongs to Scheduled Tribe community. Petitioner undertakes that while securing promotional benefits or any other benefit under any Government scheme, the petitioner shall not claim himself to be a member belonging to Scheduled Tribe community. The undertaking is taken on record and marked 'X' for identification. In view of the undertaking it is directed that petitioner shall not be entitled to claim any benefit available to the members of Scheduled Tribe category in the matter of employment as well as for

securing any benefits under policy of the State Government except for continuation of employment under the orders of this Court.

4. Learned counsel for the Scrutiny Committee states that in the judgment delivered by this Court in Writ Petition No. 1423/2015, the petitioner herein was expected to get his validation claim decided and thereafter claim benefits in respect of regularisation in employment. The learned counsel further contends that the decision of the Full Bench in the matter of Arun (Surpa) also contemplates decision in the validation proceeding. It is further stated that it has not been brought before the Court as to whether the petitioner has obtained benefits by practising fraud or mis-representation. In the instant matter, it is informed that the Vigilance report has already been received by the Scrutiny Committee which does not indicate that the petitioner is guilty of fraud or mis-representation. Apart from this, the State Government has declared a policy decision on 21.10.2015, post Full Bench decision in Arun's matter, whereunder it has been declared that the employees belonging to Scheduled Tribe category who have secured employment during the period from 15.06.1995 till 17.10.2001 shall be entitled to claim continuation in employment and that their services shall not be terminated nor they shall be suspended on the ground that their validation claim has been turned down or that such of those employees have failed to produce caste certificate. In the instant matter, petitioner has tendered caste certificate which has been referred to the Scrutiny Committee and the matter is stated to be pending. It is not a matter of dispute that the petitioner has secured employment on 23.07.1993

and as such he is entitled to claim benefits in respect of continuation in employment on the basis of earlier Government Resolution dated 15.06.1995.

5. Learned counsel for respondent institution informs on instructions that the vacancy created on account of termination of services of petitioner has not been filled in and that he can be accommodated on the vacant post. Petitioner also makes a statement that he will not claim backwages if he is directed to join services by respondent institution within reasonable period. In view of the statement made as above, it is directed that respondents 2 and 3 shall permit petitioner to resume services within a period of one month from today. Petitioner shall not be entitled to claim backwages from the date of termination of his employment till the date of his re-instatement. Petitioner shall be deemed to be continued in employment from the date of his appointment. The order terminating his services issued by the management and impugned in this petition is quashed and set aside. The tribe certificate issued in favour of petitioner earlier which is referred to the Scrutiny Committee shall stand cancelled and the caste validation claim pending before the Scrutiny Committee stands disposed of. Rule made absolute in above terms. In the facts and circumstances of the case, there shall be no order as to costs.

(P.R. BORA)
JUDGE

dyb

(R. M. BORDE)
JUDGE