

UNREPROTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.8060 OF 2013.**

Manda Bhujangrao Pawar,
Age 58 years, Occ.Service,
R/o House No.87, Avishkar
Colony, N-6, Cidco,
Aurangabad, Tq. And Dist.
Aurangabad. ... Petitioner.

Versus

1. The State of Maharashtra,
through Principal Secretary,
Tribal Development Department,
Govt. of Maharashtra, Mantralaya,
Mumbai-32.
2. The Member Secretary,
Committee for Scrutiny and
Verification of Tribes Claim,
Nashik Division, Nashik,
Adiwasi Vikas Bhavan,
Gadkari Chowk, Nashik-422004.
3. The Executive Engineer,
Inspection Unit, Opp.Hedgewar
Hospital, Aurangabad. ... Respondents.

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Mr.D.B.Pawar, advocate for the Petitioner.
Mrs.Y.M.Kshirsagar, Asstt. Govt. Pleader for the
State.
Mr.K.D.Bade Patil, advocate for the Respondent
No.2.

...

**CORAM : S.V.GANGAPURWALA &
A.I.S.CHEEMA, JJ.**

Date : 30.04.2015.

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

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, taken up for final hearing.

3. Mr.Pawar, learned counsel submits that the petitioner accepts the judgment of the Committee invalidating the tribe claim of the petitioner as belonging to 'Koli Mahadeo' Scheduled Tribe. The learned counsel submits that for lack of evidence, the claim has been invalidated. The learned counsel submits that the petitioner is appointed in the year 1981 as a Junior Clerk by Respondent No.3 and since then he is working as Junior Clerk. The petitioner is never promoted at any point of time. The petitioner is still in service. According to the learned counsel, in such a case the petitioner is

entitled for protection in service. The learned counsel relies on the judgment of the Full Bench of this Court in a case of **"Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others"** reported in **2015(1) Mh.L.J.457**.

4. Mrs.Reddy, learned counsel for Respondent NO.3 submits that petitioner has secured employment with the Respondent No.3 from Scheduled Tribe category. As his claim is invalidated, the petitioner is not entitled for protection in service. The record of the father and the uncle of the petitioner depicts caste as 'Koli' and not 'Mahadeo Koli'. The Committee has observed the said fact.

5. We have heard Mr.Bade Patil, learned counsel for the Committee and the learned Asstt. Govt. Pleader.

6. As the petitioner accepts the judgment of the Committee invalidating his tribe claim, the judgment of the Committee is required to be upheld and confirmed.

7. We have perused the judgment of the Committee. It is nowhere observed by the Committee that the tribe certificate has been obtained by the petitioner by playing fraud or by misrepresentation nor any conclusion is drawn about forgery. As is held by the Full Bench of this Court in a case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra, the petitioner is entitled for protection in service having been appointed in the year 1981.

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

a) The judgment of the Committee invalidating the tribe claim of the petitioner as belonging to 'Koli Mahadeo' Scheduled Tribe is upheld and confirmed. The petitioner shall not be entitled for the benefit of reservation of reserved category in service or in any walk of life. The entry of this order shall be taken in the service book of the petitioner. The tribe certificate stands cancelled and confiscated.

b) The Respondent No.3 shall not take any adverse action against the petitioner only on the ground that his tribe claim has been invalidated.

c) Rule accordingly made partly absolute.
No costs.

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

(S.V.GANGAPURWALA, J.)

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