

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9561 OF 2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.S.Deshmukh, advocate holding for Mr.B.S.Deshmukh, advocate for the petitioner.
 Mr.A.S.Shinde, Asstt. Govt. Pleader for the State.
 Mr.S.S.Dande, advocate for Respondent No.3.

**CORAM : S.V.GANGAPURWALA &
 V.L.ACHLIYA, JJ.**

Date : 27.01.2015.

PER COURT :

1. Heard.

2. Mr.Deshmukh, learned counsel for the petitioner states that the tribe claim of the petitioner has been invalidated by the Committee on the ground that there is lack of evidence. It is not a case of fraud or misrepresentation on the part of the petitioner but only because the petitioner was short of evidence, the tribe certificate could not be validated. The petitioner is appointed in the year 1981 with Respondent Corporation and was promoted from time to time.

3. The learned counsel submits that the last promotion though is after the enactment of the Maharashtra Scheduled Castes, 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, but the same was considering the petitioner from General category. The learned counsel submits that though there was an order of statusquo passed on the same day, the petitioner was terminated. The petitioner is seeking protection in service in view of the judgment of the Full Bench of this Court in the case of **“Arun V/o Vishwanath Sonone Vs. State of Maharashtra and others”** reported in **2015(1) Mh.L.J. 457**.

4. Mr.Dande, learned counsel for the Corporation submits that the conduct of the petitioner is required to be considered. The petitioner was knowing fully well that he does not belong to reserved category but still, took the benefit of reserved category. The petitioner has withdrawn Provident Fund and other benefits also. According to the learned counsel, the petitioner would not be entitled for any benefits as per the judgment of the Full Bench in the case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra.

5. We have considered the submissions canvassed by learned counsel for respective parties.

6. It is not disputed that the petitioner was appointed in the year 1981, with the Respondent Corporation and was granted promotion from time to time. The claim has been invalidated by

the Committee, however, while delivering the judgment, the Committee has nowhere observed that there is any fraud or misrepresentation or forgery on the part of the petitioner.

7. In light of that, the petitioner would be entitled for the benefit of the judgment of the Full Bench of this Court in the case of **“Arun V/o Vishwanath Sonone Vs. State of Maharashtra and others”** referred supra. However, if the petitioner has been given any benefit of reserved category after the enactment, the petitioner would not be entitled for the same.

8. In light of the above, the order terminating the services of the petitioner dated 29.10.2014, is quashed and set aside. The petitioner shall be reinstated in service on his original post which he was holding on the date of his termination. In case the petitioner has been granted any benefit of reservation after 18th October, 2001 then the petitioner would not be entitled for the said benefit. The petitioner shall be reinstated with all consequential benefits except back wages from 29th October, 2014 till the date of passing of this order. The order of reinstatement be issued immediately within one week.

9. The Writ Petition is disposed of. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..27.01.2015.
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