

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9990 OF 2014

Shri Manik S/o Uttamrao Tote
Age 52 years, Occ-Service
Extension Officer (Agri)
Panchayat Samiti, Mantha
R/o At Post Pangri, Tq. Mantha
Dist.Jalna

.. PETITIONER

Versus

- 1] The State of Maharashtra
Through Secretary,
Tribal Development
Department.
(Copy served on G.P.
High Court, Aurangabad)
- 2] The Zilla Parishad
Jalna, Through Chief
Executive Officer
- 3] Deputy Chief Executive Officer
Zilla Parishad, Jalna

..RESPONDENTS

...
Shri A.S.Golegaonkar, Adv. for petitioner
Shri K.G.Patil,AGP for Respondent State.
Shri N.B.Patil h/f Mr.S.S.Tope,Adv. For respondents 2 and 3.

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**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 28th January, 2015.**

P.C. :

The tribe claim of the petitioner as belonging to Koli Mahadev Scheduled Tribe has been invalidated. Mr.Golegaonkar, learned counsel submits that though tribe claim of the petitioner is invalidated, the petitioner is entitled for the protection of service as the petitioner was appointed in the year 1991 as Gram Sevak. According to the learned counsel there is no finding of fraud or misrepresentation by the committee while invalidating the tribe certificate. According to the learned counsel, the petitioner is entitled for protection of service.

2] The learned counsel for the respondents submits that the petitioner was appointed from the reserved category. As such, he is not entitled for the benefits of the reserved category. According to the learned counsel, as the tribe certificate has been invalidated, that action has been rightly taken against petitioner.

3] We have considered submissions canvassed by respective counsel for respondents. It is not disputed that the petitioner is appointed as Gram Sevak vide order dated 14/6/1991. Thereafter, in June, 1995, he is promoted as Village Development Officer and in 2002, is promoted as an Extension Officer. The tribe claim of the petitioner has been invalidated on the ground of lack of

evidence and the petitioner could not prove his case. Ofcourse there is no finding of any fraud or misrepresentation. In view of the judgment of the Full Bench of this Court in the case of **Arun Sonune V/s State of Maharashtra and others reported in 2015(2) MLJ 457**, in such case, petitioner would be entitled for protection. However, the promotion which is given after introduction 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 (Maharashtra Act No.XXIII of 2001) would not be protected. The petitioner is promoted as Village Development Officer in June, 1995 and as an Extension Officer in June, 2002 which is after introduction of the said Act. The promotion given as an Extension Officer considering the petitioner from the reserved category, certainly cannot be protected.

3] In light of the above, we pass following order :

Respondents shall not terminate services of the petitioner only on the ground that his tribe claim has been invalidated. The petitioner is promoted as Village Development Officer in 1995. The same protection is continued, however, petitioner would not be entitled for benefit of the post of Extension Officer to which he was promoted from the reserved category. The respondents shall treat the petitioner as Village Development Officer. The petitioner henceforth shall not claim benefit of any reservation in service or in any walk of life. Entry of the

same shall be recorded in the service book of the petitioner.

4] Writ Petition accordingly disposed of with aforesaid observations and directions. Civil Application No.894/15 also stands disposed of. No costs.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.

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