

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.210 OF 2012

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.R.R.Surywasnshi, advocate for the Petitioner.
Mr.G.K.Naik Thigle, Asstt. Govt.Pleader for the State.

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.**
Date : 07.01.2015.

PER COURT :

1. Heard.
2. Mr.Suryawanshi, learned counsel submits that the petitioner is appointed on 6.1.2004 as a Lab Attendant in Respondent No.5 College. The validation proceedings in respect of his tribe claim is pending. This Court had passed a prohibitory order against Respondent from terminating the services of the petitioner i.e. not to take any adverse action against the petitioner and also directed the Committee to decide the validation proceedings within six (6) months. However, inspite of the fact that the validation proceedings were pending, the Respondent No.5 terminated the services of the petitioner. The prohibitory orders were also

in force. The learned counsel submits that thereafter the Respondent Committee rejected the tribe claim of the petitioner. This Court in Writ Petition set aside the judgment of the Committee and remitted the matter back to the Committee. The petitioner needs to be reinstated along with back wages and all other benefits.

3. Mr.Bade Patil, learned counsel for the Committee submits that the validation proceedings are pending and it would take some time to decide the proceedings.

4. Mr.Natu, learned counsel for the Respondent Nos.3 and 4 submits that this Court in Writ Petition had directed the Committee to decide the proceedings within six (6) months and till then the Respondents were directed not to take any adverse action. The said order would be in force for the period of six months only. The termination order was issued after the period of six months. No illegality is committed by the Respondent Nos.4 and 5 while terminating the services of the petitioner.

5. We have considered the submissions canvassed by the learned counsel for respective parties. This Court while disposing of Writ Petition No.7515/2006 filed by the petitioner had directed the Scrutiny Committee to decide the tribe claim of the petitioner within six months and till then Respondents were directed not to take any adverse action against the petitioner.

6. The said order is passed after hearing the parties. When this

Court directed the Committee to decide the proceedings within six months and further directed that till then no adverse action shall be taken against the petitioner the same would mean that no adverse action be taken against the petitioner till the validation proceedings in respect of tribe claim of the petitioner is pending. Today also the validation proceedings in respect of the tribe claim of the petitioner is pending. As such it was erroneous on the part of Respondent Nos.4 and 5 to terminate the services of the petitioner on the ground that the validation certificate is not yet obtained.

7. Mr.Suryawanshi, learned counsel on instructions states that the petitioner would waive the back wages but should be granted all the benefits of continuity.

8. We have considered the bonafides of the petitioner also. In light of the above, we pass the following order :

a) The impugned order dated 9.11.2011, passed by Respondent Nos.4 and 5 is quashed and set aside. The Respondent Nos.4 and 5 shall reinstate the petitioner to his original position i.e. on the post held by petitioner prior to order of termination immediately with the benefits of continuity of service and consequential benefits, however, with out back wages from 9.11.2011 to 31.12.2014. The Respondent Nos.4 and 5 shall pay regular salary to the petitioner from the month of January 2015. This order of reinstatement is subject to further decision of the Scrutiny Committee in respect of

validation proceedings or such other proceedings which would be taken up by the party.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..07.01.2015.
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