

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

WRIT PETITION NO.10691 OF 2015

Ashok s/o Pandit Koli
Age: 41 Yrs., occu. Service,
R/o Navagaon, Chalisgaon,
District Jalgaon.

- PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary to Tribal
Development Department,
Mantralaya, Mumbai.
- 2) The Commissioner of Police,
Mumbai, Dr.DN Road, Fort,
Mumbai.
- 3) The Sub Divisional Officer
Chalisgaon, Dist. Jalgaon,
District Jalgaon.
- 4) The Scheduled Tribe Certificate
Verification Committee,
Aurangabad, Through its
Deputy Secretary (R), Nashik. - RESPONDENTS

Mr.Sunil M.Vibhute, Advocate for Petitioner/s
Mr.SG Karlekar, AGP for Resp Nos. 1 to 3;
Mr.AB Tele, Adv. for Resp.No.4.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 21st October, 2015.

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

- 1) Heard. Rule. Rule made returnable
forthwith. With the consent of learned Counsel for

the parties, the petition is taken up for final disposal at admission stage.

2) The petitioner, on the strength of caste certificate issued to him, certifying that he belongs to "Koli Mahadev", scheduled tribe, tendered an application, seeking employment in the Police Department at Mumbai and after undergoing the necessary tests, he was appointed as Police Constable on 1.2.1999. The tribe certificate issued in favour of the petitioner was referred for verification to Respondent No.4-Committee. However, the Committee, noticing that the tribe certificate which has been issued to the petitioner, has not been issued by a competent authority and the same has been issued by an authority, which does not have territorial jurisdiction to issue the certificate, has directed cancellation of the Certificate produced by the petitioner for verification. The petitioner has been granted liberty to secure a certificate from the competent authority and produce the same for verification.

3) The petitioner apprehends that as a result of the invalidation of the tribe claim by the Caste Scrutiny Committee, the employer is likely to take an

adverse action against him.

4) The petitioner has filed an undertaking to this Court stating therein that the petitioner is giving up the tribe claim of "Koli Mahadev" for himself as well as on behalf of his heirs. It is specifically undertaken by the petitioner that he and his heirs will not claim any benefit of "Koli Mahadev", scheduled tribe, in future for any purpose. The petitioner prays for grant of service protection on the strength of the judgment delivered by the Full Bench this Court in the matter of Arun Vishwanath Sonwane Vs. State of Maharashtra reported in 2015 (1) Mah.L.J. 457. The Full Bench has observed in the said judgment that, since the petitioner has been inducted in the employment before 28.11.2001; and that he is giving up his claim as a person belonging to tribal community, he can very well be granted employment protection. The petitioner shall be considered as an employee belonging to open category and that he shall not be entitled to claim any benefit in future as a member of scheduled tribe category.

5) The respondent/employer is directed not to take any coercive action against the petitioner on

the ground of his failure to tender validation certificate and that he shall be considered as an employee belonging to open category.

6) Rule is made absolute in above terms. There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/