

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

WRIT PETITION NO.10891 OF 2015

Shivkumar s/o Vasantrao Gandapwar
Age:34 Yrs., occu. Service,
R/o Shivba Nagar, Degloor,
Tq. Degloor, Dist. Nanded.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through Secretary to
Tribal Development
Department, Mantralaya,
Mumbai.
- 2) The Divisional Joint Director
of Agriculture, Amravati Divn.
Amravati, Dist. Amravati.
- 3) The District Superintending
Agriculture Officer,
Amravati Dist. Amravati.
- 4) The Taluqa Agriculture Officer,
Chikhaldara, Dist. Amravati.
- 5) The Schedule Tribe Certificate
Verification Committee,
Aurangabad, through its
Deputy Director (R)
Aurangabad.

- RESPONDENTS

Mr.Sunil M.Vibhute, Advocate for Petitioner/s
Mr.DR Kale, AGP for Resp.Nos.1 to 4;
Mr. KD Bade-Patil, Adv. For Resp.No.5.

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

DATE : 29th 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 claims to belong to "Mannerwarlu" scheduled tribe (ST) category and has been appointed on the post of Clerk in Agriculture Department on 16.1.2014 as against a vacancy prescribed for the aforesaid category. The appointment order issued to the petitioner contains stipulation that he shall have to produce Caste Validity Certificate to the employer within a period of six months from the date of appointment order.

3) The petitioner contends that tribe claim proceeding for verification in respect of the certificate issued to the petitioner was referred to the Caste Scrutiny Committee on 1st April, 2013 and the same is pending with the committee for disposal and on enquiries by the petitioner, he has been informed that the Committee may not be in a position to dispose of the tribe claim of the petitioner expeditiously.

4) The employer, as a result failure on the part of the petitioner to produce Caste Validity Certificate, has directed termination of services of the petitioner by order dated 23rd October, 2015.

5) It is not within the control of the petitioner to secure Caste Validity Certificate from the Committee within stipulated period. The Committee has also informed the employer of the petitioner that it may consume some time in processing the tribe claim of the petitioner. The tribe claim verification proceedings pending before the Committee may consume some time and for that the petitioner cannot be put to blame or to any disadvantage, as a result of failure of the Committee to take a decision on the tribe claim verification proceeding of the petitioner within stipulated period. The employer of the petitioner ought to have looked into the record before terminating the services of the petitioner.

6) In the facts and circumstances of the case, we are of the opinion that the termination order

passed by the Respondent No.2 - employer, deserves to be quashed and set aside and the same is accordingly quashed and set aside and the respondent/employer is directed to continue the petitioner in employment subject to decision in respect of the tribe claim verification proceeding pending before the Committee.

7) Respondent No.5 Committee is also directed to take decision on the tribe claim verification proposal of the petitioner pending before it, as expeditiously as possible, and preferably within a period of one year from today and it is accordingly directed.

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

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/