

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

WRIT PETITION NO. 11555 OF 2014

Shankar Ramrao Bhare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 11542 OF 2014**

Uttam Shankarrao Kawale .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 11531 OF 2014**

Suwarna Sitaram Bane .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 11570 OF 2014**

Dnyaneshwar Maroti Bhatte .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 11558 OF 2014**

Ramrao Vitthalrao Bharpure .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 11544 OF 2014**

Madhav Maroti Bhatte .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner in all matters.

Shri P. N. Mule, A.G.P. for the Respondent No. 1 in all matters.

Shri P. S. Patil, Shri K. D. Bade Patil and Shri Ashok B. Tele, Advocate for the Respondent No. 2 in respective writ petitions.

Shri S. N. Patne, Advocate for the Respondent No. 3 in W. P. No. 11542/2014.

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

DATE : 05TH FEBRUARY, 2015.

PER COURT :

. All these matters involve common question of law and are based on same set of facts and as such, are being decided by this common order.

2. Mr. Yeremwar, learned advocate for the petitioners submits that in view judgment in "**A. P. Ramtekkar V/s Union of India & Others**" reported in **2013 (2) Mh.L.J. 419**, the petitioners be given protection in service when proceedings before committee seeking validation of their tribe claim being decided. The judgment of Division Bench of this Court in *Ramtekkar's* case is also upheld by the Apex Court, as Special Leave Petition is dismissed. Learned advocate submits that since the petitioners do not possess documents prior to 1950 there is possibility of rejection of their claims and the same is required to be avoided and the petitioners are entitled for protection in service, as the petitioners are appointed prior to the year 2000.

3. Mr. Patil, Mr. Tele and Mr. Bade Patil, learned advocates for the Committee in the respective petitions submit that said judgment in *Ramtekkar's* case (supra) is partly overruled by the Full Bench of this Court vide judgment dated 22nd December, 2014 in writ petition No. 5297 of 2013 with connected writ petitions. According to them, the Full Bench has not concurred with the view of the Division bench of this Court in "*Ramtekkar's*" case and held that protection can be granted only after verification of caste/tribe claim by the scrutiny committee, as fraudulent cases may surface.

4. We have considered submissions canvassed by learned

advocates for the respective parties. In view of judgment of the Full Bench of this Court in writ petition No. 5297 of 2013 and connected writ petitions, dated 22.12.2014, the petitioners cannot claim protection unless claim is decided by the scrutiny committee. The Full Bench has framed question "b" as under:

"b. Whether the protection granted in Milind's case becomes available even without going through the process of scrutiny of caste / tribe claim by the scrutiny committee under sub section (2) of section (6) of the said Act?"

5. The said question has been answered by the Full Bench in paragraph No. 64 of the judgment, as under :

"Protection granted in Milind's case becomes available only upon invalidation of the caste claim by the scrutiny committee, it would not be merely an empty formality increasing the workload of the Committees and that the protection is not available without going through the process of scrutiny committee under sub section (2) of section 6 of the said Act." It is only to this extent, we overrule partly the decision in A.P. Ramtekkar's case."

6. In the light of above, the issue is now no longer *res integra*. The petitioners cannot be given protection unless their claims are decided by the scrutiny committee and the judgment to that extent in case of *Ramtekkar's* case is partly overruled. As far as protection claimed by the petitioners during pendency of validation proceedings is concerned, at present, no such apprehension is spelt out. In case during pendnecy of validation

proceedings some coercive steps are tried to be undertaken by the respondent - employer, the petitioners would have every right to agitate the same.

7. In the light of the above, the prayer made by the petitioners in the present petitions cannot be accepted. Writ petitions accordingly stand disposed of. Needless to state that after decision of the committee, the petitioners have right to assail said judgment and seek further reliefs as are permissible in law. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 15