

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3278 OF 2011

Shri Sanjay Uttam Koli ... Petitioner

Vs.

State of Maharashtra & Ors. ... Respondents

Mr.S.S. Salunkhe for the Petitioner
Ms.M.S. Bane, Assistant Government Pleader, for Resp. No.1
Mr.S.S. Gadve i/b Vijay Killedar for Respondent No.2

CORAM: **SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: **16th FEBRUARY, 2015**

ORAL JUDGMENT (Per SMT. VASANTI A. NAIK, J.):

Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsel for the parties.

The only relief claimed by the petitioner is protection of his services in view of the law laid down by the Full Bench of this Court in ***Writ Petition No.5297 of 2013 and others***, reported in **2015 (1) Mh.L.J. 457**.

The petitioner was appointed as an Assistant Teacher in the respondent Zilla Parishad on 3.6.1996 on a post reserved for the Scheduled Tribes. The petitioner claimed to belong to Mahadeo Koli Scheduled Tribe

and the caste certificate of the petitioner was sent to the Scrutiny committee for verification. By an order dated 7.5.1996, the Scrutiny Committee invalidated the caste claim of the petitioner. The Scrutiny Committee found that the documents tendered by the petitioner did not prove that the petitioner belonged to Mahadeo koli Scheduled Tribe. Also, the Scrutiny Committee held that the petitioner did not prove his affinity towards Mahadeo Koli Scheduled Tribe. The petitioner had challenged the order of the Scrutiny Committee dated 7.5.1996 by filing a writ petition but without success. By the present writ petition, the petitioner has sought the protection of his services in view of the various judgments rendered by the hon'ble Supreme Court and this Court, as the services of the petitioner have been terminated w.e.f. 20.12.2003, in view of the invalidation of his caste claim.

The learned Counsel for the petitioner has relied on the law laid down by the Full Bench of this Court in Writ Petition No.5297 of 2013 and others. It is stated that since the petitioner was appointed on 2.6.1996 and since the caste scrutiny committee has not found that the petitioner had secured the caste certificate fraudulently, it would be necessary to protect the services of the petitioner.

The learned Counsel for the respondent Zilla Parishad submitted that

if the petitioner is reinstated on the post of the assistant teacher in view of the law laid down by the Full Bench, this Court may not direct the respondent – Zilla Parishad to pay the arrears of salary to the petitioner. It is stated that the petitioner should also furnish an undertaking to this Court and also to the Zilla Parishad that neither the petitioner nor his progeny would seek the benefit of Mahadeo Koli caste.

On hearing the learned Counsel for the parties and on a perusal of the Full Bench decision as also the order passed by the caste scrutiny committee on 7.5.1996, it appears that the petitioner would be entitled to the protection of his services. There is no observation in the order of the Scrutiny Committee dated 7.5.1996 that the petitioner has fraudulently secured the caste certificate and/or has falsely secured the benefits granted to the Scheduled Tribes. It appears on a reading of the order of the Scrutiny Committee that the caste claim of the petitioner is invalidated as the petitioner was not able to prove his affinity to the Mahadeo Koli Scheduled Tribe and the petitioner had not tendered any documents of the pre-independence era to prove his caste claim. Since the petitioner was appointed in the year 1996, the case of the petitioner is squarely covered by the judgment of the Full Bench reported in **2015 (1) Mh.L.J. 457**.

Hence, for the reasons aforesaid, the writ petition is partly allowed.

The services of the petitioner stand protected in view of the judgment reported in the **2015 (1) Mh.L.J. 457**. The respondent – Zilla Parishad is directed to reinstate the petitioner in service within a period of 2 weeks. The petitioner would not be entitled to backwages in the circumstances of the case. The respondent – Zilla Parishad is directed to grant continuity of service to the petitioner but the petitioner would not be entitled to claim backwages. The said relief is subject to the petitioner furnishing an undertaking in this Court and before the Zilla Parishad within a period of 2 weeks that neither the petitioner nor his progeny would claim the benefits provided to the Scheduled Tribes.

Rule is made absolute in the aforesaid terms with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)