

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4903 OF 2012

Shri NavnathShivram Koli

.... Petitioner

vs

1 The General Manager,
Central Bank of India,
Mumbai

2 The Assistant General Manager,
Central Bank of India,

3 The Additional Commissioner,
Maharashtra Scheduled Caste,
Scheduled tribes, De-notified Tribes,
(Vimukta Jatis), Nomedic Tribes,
Other Backward Classes and Special
Backward Classes Regulation and
Verification & Scrutiny Committee
Konkan Division, Thane

4 The Collector, Thane District, Thane

5 Executive Magistrate,
Thane District, Thane

6 The State of Maharashtra

7 The Union of India

.... Respondents

Mr. Sandesh D. Patil with Advocate Anusha P. Amin I/by Mr.Prashant Jadhav for the petitioner.

Mr. Lancy D'souza with Mr. V.M. Parkar and Deepika Agarwal for respondents 1 and 2.

Mr. V.N. Sagare, AGP for State.

Mr. Shehnaz (Sheroo) V. Bharucha (Daruwalla) for respondent No.7.

**CORAM: ANOOP V. MOHTA AND
A. A. SAYED, JJ.**

DATE : September 01, 2015

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

Rule, returnable forthwith. Heard finally by consent of parties.

2 Petitioner is in service of Respondent Bank since 5.5.1991, based upon a caste claim of being “Mahadeo Koli”. The Scrutiny Committee by Order dated 16 July 2009, however, has invalidated caste certificate of the Petitioner and, therefore, the present Petition is filed on 2.5.2012 as Respondents-Bank by order dated 27.08.2009 terminated the services of the Petitioner based upon the same.

3 The learned counsel appearing for the Petitioner, in view of the judgments of this Court and specially a Full Bench Judgment in Arun s/o Vishwanath Sonone v. State of Maharashtra and ors¹ submitted that he is giving up his caste claim and seeks only protection as referred and/or considered in other judgments.

4 The learned counsel appearing for the Respondent-Bank,

1 2015 (1) Mh. L.J. 457

however, submitted that the use of the words “manipulated and fabricated” in the impugned order would dis-entitle the Petitioner, the grant of any relief, including any protection of service, as throughout, the case/claim of the Petitioner, as averred and as recorded is “Koli” and not “Mahadeo Koli”. This Court in *Rakesh Dafade v. State of Maharashtra*² considered the confusion and the situation prevailing for many years in such matters and recorded as under :

“3 The claims revolving around the word's “Koli”/”Hindu Koli”/”Mahadeo Koli”/”Koli M.”. The confusion and the situation prevailing for many years and so also admission and the appointment based upon it. They tried, but were unable to prove the caste that itself does not mean that they have committed any illegality in claiming the same. In view of above nomenclatures, it cannot be stated that the Petitioners have committed any fraud and/or misrepresentation. Their services, cannot be disturbed because of the impugned orders. The Petitioners, however, are required to get the certificate of their existing caste to submit the same for the service record and/or for future purposes. Therefore, in view of the Supreme Court decisions as referred above and as the Petitioners are similarly placed, though caste is different, but the principle as laid down are quite applicable, the protection in service and/or continuity in service and/or reinstatement, without providing them benefits and/or in a given case, permitting the employer to withdraw the benefits would strike the balance.”

2 MANU/MH/0399/2014

5 Even the Full Bench of this Court in Arun Sonone (supra) in paragraph 74 recorded as under :

“74 In verification and scrutiny of the caste claim, the Scrutiny Committee is normally concerned with the process by which a Caste Certificate is obtained. It is concerned with the information furnished, the statements made, and the documents produced before the Competent Authority to obtain a Caste Certificate. It is the question of correctness and genuineness of the Caste Certificate obtained and produced. Hence, the scope of enquiry should extend to the material on the basis of which the Caste Certificate is issued. The learned counsel appearing for the Scrutiny Committee could not make even a statement before this Court that in any of the orders passed by the Scrutiny Committee, such exercise was carried out. Be that as it may. Mere using the words ‘false’, ‘fraudulent’, ‘misrepresentation’, ‘collusion’, ‘suppression’, etc., in the order of the Scrutiny Committee shall not be a decisive factor unless there is relevant material available on record to substantiate such finding. There may be cases where the order of the Scrutiny Committee does not use the words like ‘false’, ‘fraudulent’, ‘misrepresentation’, ‘collusion’, ‘suppression’, etc., but it becomes apparent from the material available on record that it is a case of securing the benefits by practising a fraud.”

6 In the present case, considering the facts, as well as, finding so recoded by the Scrutiny Committee, we see no reason not to grant the protection to the Petitioner, apart from caste claim, the fact that he had rendered the service since 1991 till the date of

termination. We note that the Petition was filed in the year 2012. The submission on behalf of Respondent-Bank, in view of above observations, we are not inclined to accept to deny protection so claimed.

7 The Petitioner has also relied upon the following judgments against the Respondent-Bank, whereby this Court at Nagpur Bench granted the protection as prayed by the Petitioner in the present case.

- 1) Writ Petition No.3617 of 2001 - Suchita Baburao Khadgi v. Central Bank of India decided on 3.7.2015
- 2) Writ Petition No. 808 of 1999 - Natthuram Jaideo Patre v. Central Bank of India and anr decided on 15.06.2015
- 3) Writ Petition No. 2971 of 2014-Gunvant Mahadeo Koli v. Chief Executive Officer and ors decided on 07.05.2015.

8 The Petitioner is entitled for the protection in view of the above judgments so recorded on furnishing an undertaking to the Respondents-Bank and also this Court that neither the Petitioner nor his progeny would claim the benefits meant for “Mahadeo Koli” Scheduled Tribe in future.

9 Therefore, the following order in view of the above:

ORDER

(i) Termination order dated 27.08.2009 passed by Respondent No.1 is quashed and set aside;

(ii) The Petitioner to be reinstated and would not be entitled to arrears of salary from the date of his termination till the date of reinstatement though he would be entitled to continuity in service.

(iii) The Petitioner to file an undertaking as stated in para 8 hereinabove within two weeks in this Court as well as with Respondent No.1.

(iv) The writ petition is accordingly disposed of.

(v) Rule is made absolute accordingly.

(vi) No costs.

10 The learned counsel appearing for Respondent-Bank seeks stay of this order. However, considering the reasons so given, in view of the judgments so referred above, we see no case is made out. Therefore, oral application for stay is rejected.

(A. A. SAYED, J.)

(ANOOP V. MOHTA, J.)

C E R T I F I C A T E

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