

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION No. 7504 OF 2014

Sanjay Jaywant Kadam

.. Petitioner

Vs.

State of Maharashtra,
through Secretary, Social Welfare
Dept. & Ors.

.. Respondents

Mr.Ramchandra K. Mendadkar with Ms.Helen Koli-Mandlik for petitioner.

Ms.S.S.Bhende, AGP for respondent nos. 1 and 2.

**CORAM : ANOOP V. MOHTA,
K.R. SHRIRAM, JJ.**

DATED : 22ND APRIL, 2015

P.C.

1. Rule made returnable forthwith and by consent heard finally.
2. We are inclined to dispose of the present writ petition as the issues so agitated are covered by the judgment of this court in writ petition no. 3014 of 2014 in the matter of ***Rakesh Sukanuji Dafade V/s. State of Maharashtra & Anr.*** and other connected matters (Exh.'E' to the petition) and as further confirmed by a Full Bench judgment of this Court in the matter of ***Arun s/o. Vishwanath Sonone Vs. State of Maharashtra & Ors.***¹.

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

3. The petitioner, who is partially disabled (50%), has challenged the order passed by the Scrutiny Committee dated 14th July 2014 rejecting his claim of being 'Mahadeo Koli', however, declared that the petitioner belongs to Koli, Special Backward Category (SBC).

4. Considering the time span and his physical condition and in view of the judgments referred above, the counsel for the petitioner submits that the petitioner is restricting his claim only for protection in service with continuation of service and no further benefits after 28th November 2000 even if it granted earlier.

5. Admittedly, the petitioner is in service since 11th September 1995 based upon the earlier caste certificate. This court, by an order dated 11th August 2013, protected his services by passing ad-interim relief in terms of prayer clause (c). The petitioner, therefore, is being in service till this date. The Full Bench in the Arun S/o. Vishwanath Sonone's matter (supra) recently has observed as under :

75 We, therefore, do not enter into the merits of the claim and leave it for the concerned Benches to decide, on the facts and circumstances of each case, whether the protection need to be granted or not. But we conclude in this judgment that :

(i) mere invalidation of the caste claim by the

Scrutiny Committee would not entail the consequences of withdrawal of benefits or discharge from the employment or cancellation of appointments that have become final prior to the decision in Milind's case on 28112000,

(ii) upon invalidation of the caste claim by the Scrutiny Committee, the benefits obtained or appointments secured from 28112000 upto 18102001 can be withdrawn or cancelled, depending upon the terms of the employment, if any, in writing,

(iii) the benefits obtained or appointments secured after coming into force of the said Act on 18102001 can be withdrawn or cancelled immediately upon invalidation of the caste claim by the Scrutiny Committee,

(iv) the benefit of protection in service upon invalidation of the caste claim is available not only to the persons belonging to "Koshti" and "Halba Koshti", but it is also available to the persons belonging to Special Backward Class category on the same terms as is available to "Koshti" and "Halba Koshti", and

(v) the claim of the persons belonging to Nomadic Tribes, Vimukta Jatis and Other Backward Class category shall be decided on the lines of the decision of the Apex Court in the case of *R. Unnikrishnan and another v. V.K. Mahanudevan and others*, reported in 2014(4)SCC434.

Therefore, for the reasons so recorded in the judgments, we are inclined to allow this petition in the following terms :

ORDER

- (a) The petitioner/candidate/employee is entitled for protection in service with continuity of service.
- (b) The petitioner would not be entitled to any caste benefits on the basis of earlier caste/tribe which he had claimed. However, the petitioner/candidate is entitled for the benefits, if any, based upon the concluded/existing caste/ tribe in question (Koli SBC) (Koshti SBC).
- (c) The benefits, if any, granted after 28.11.2000 being belonging to “Mahadeo Koli”, the respondents/employer/management are at liberty to withdraw the same.
- (d) The petitioner/employee/candidate to submit the present caste certificates to complete the formality of service record as soon as possible and preferably within six months.
- (e) All the parties to cooperate accordingly.
- (f) Rule is made absolute accordingly in the petition.
- (g) There shall be no order as to costs.

(K.R. SHRIRAM, J.)**(ANOOP V. MOHTA, J.)**