

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.

CIVIL APPLICATION (CAW) NO.182 OF 2015

IN

WRIT PETITION NO.4384 OF 2003

Sanjay S/o Keshav Likhar

..vs..

**State of Mah., thr its Secretary, Tribal Development Department,
Mantralaya, Mumbai and ors**

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Shri S.R. Narnaware, counsel for the Applicant/Petitioner.
Shri C.N. Adgokar, AGP for N.A.No.1/Resp.
Shri Abhijeet Deshpande, counsel for N.A.No.2/Resp.
Shri S.R. Deshpande, counsel for N.A.No.3/Resp.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : FEBRUARY 9, 2015.

Heard.

The applicant / petitioner has taken out
this civil application for disposing of the writ
petition in terms of the Full Bench Judgment in
the case of **Arun S/o Vishwanath Sonone ..vs..**
State of Maharashtra and ors, reported at
2015(1) Mh.L.J. 457.

With consent of learned counsel appearing

.....2/-

for the respective parties, the civil application as also the writ petition are taken up for final hearing.

The petitioner is born on 17.5.1974 and he got Caste Certificate on 31.7.1993 which shows his Caste as “*Halba*” (Scheduled Tribe). On the strength of that Caste Certificate, he joined employment on 31.3.1997. The Caste Certificate of the petitioner was forwarded for its verification as per the procedure then prevailing on 10.2.1999 and has been invalidated on 20.10.2003.

Though the caste claim has been forwarded for verification before delivery of the Judgment of the Constitution Bench of the Honourable Apex Court in the case of **State of Maharashtra ..vs.. Milind Katware**, reported at **2001(1) Mh.L.J. 1** or before coming into force

of Act No.XXIII of 2001, invalidation is as per the procedure prescribed in Act No.XXIII of 2001.

This Court has granted *interim* order and, therefore, the petitioner is continuing in employment.

Perusal of the impugned order passed by the Caste Scrutiny Committee shows that the petitioner has relied upon the Caste mentioned in school record of his uncle in the year 1960. That document or then school record of the petitioner are not found to be interpolated or tampered with. The caste claim has been invalidated as old documents of forefathers mentioned Caste as “*Koshti*”.

In this situation, we find the petitioner entitled to protection of employment. Accordingly, subject to the petitioner’s filing an

undertaking with the Registry of this Court so also with his employer within a period of six weeks from today that he or his progeny shall not claim any benefits of or status as belonging to “*Scheduled Tribe*”, we declare that he is entitled for protection of service in terms of the Full Bench Judgment of this Court in the case of Arun S/o Vishwanath Sonone cited *supra*.

The writ petition is thus partly allowed and disposed of.

In view of the disposal of the writ petition, the civil application also stands disposed of accordingly.

JUDGE

JUDGE

!! BRW !!

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