

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

WRIT PETITION NO.963 OF 2013

Vijay S/o Shripatrao Parate

..vs..

**Commissioner Backward Class Category, Amravati Division,
Amravati 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 R.S. Parsodkar, counsel for the petitioner.
Shri T.R. Kankale, AGP for R-1 & 4.
None appears for R-2 & 3.

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 15, 2015.**

1. **Heard.**

2. The petitioner was born sometime in the year 1974. He has been appointed as a "*Special Backward Class*" candidate on 17.10.1996.

3. Shri Parsodkar, learned counsel for the petitioner, submits that though the appointment was as '*Halba*' (Scheduled Tribe), in the light of

Government Resolution dated 15.6.1995, certificate showing that he belongs to “*Special Backward Class*” and also validity issued by the competent Scrutiny Committee on 12.6.2012, the employer has changed the roster point accordingly in the year 2007 itself and the petitioner was appointed against “*Special Backward Class*” right from 17.10.1996. The Backward Cell approved this roster on 11.12.2007. In this situation, learned counsel submits that the petitioner is entitled to protection in the light of the Full Bench Judgment of this Court in the case of **Arun s/o Vishwanath Sonone ..vs.. State of Maharashtra & ors,** reported at **2015(1) Mh.L.J. 457.** Learned counsel further submits that communication which gave rise to the present petition dated 14.1.2013 calling upon the petitioner to produce validity as “*Scheduled Tribe*” candidate is, therefore, unsustainable.

4. Learned Assistant Government Pleader invites our attention to the amendments carried out to the writ petition to show that the petitioner's grievance is only for grant of protection and the prayers are already given up.

5. A perusal of the Full Bench Judgment of this Court shows that in 1987 the Division Bench of this Court recognized "*Halba-Koshti*" as "*Halba*" which lead to the Judgment of the Honourable Apex Court in the case of **State of Maharashtra ..vs.. Milind Katware**, reported at **2001(1) Mh.L.J. 1**. In that Judgment because of confusion prevailing, the Honourable Apex Court protected the admission of students. That analogy and protection has been later on extended even to employment. The issue stands concluded by the Full Bench Judgment of this Court delivered recently and mentioned

supra.

6. In this situation, we find that the petitioner is also entitled to the protection. Accordingly, the petitioner to file an undertaking, 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*”.

7. Subject to filing of such undertaking, the services of the petitioner are protected as per the Full Bench directions.

8. The writ petition is, thus, partly allowed and disposed of.

9. The petitioner shall not be called upon to produce a Caste Validity Certificate showing that he belongs to the “*Scheduled Tribe*” and shall be treated as a person belonging to

.....5/-

“Special Backward Class” in terms of validity given to him by the Scrutiny Committee vide its decision No.SWR/1211 CVN on 12.6.2012.

JUDGE

JUDGE

!! BRW !!