

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

W.P.No. 1145 of 2015

Prabhakar s/o Narhari Apotikar vs. State of Maharashtra and others.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Mr. S.G.Joshi, Adv. for the petitioner.

Mr. H.D.Dube, AGP for R-1.

Mr. Amol Deshpande, Adv. for R-2 and 3.

CORAM: B.R.GAVAI & C.V.BHADANG,JJ

DATE : 12.3.2015

The petitioner has approached this court with a limited relief for protection of his service.

2. The petitioner came to be appointed on 25th July, 1997 as an Assistant Teacher. The petitioner was appointed against the post reserved for Scheduled Tribe since he claimed to be belonging to "Koli Mahadeo" Scheduled Tribe.

3. However, in the meantime, the petitioner gave up his claim to be belonging to the Scheduled Tribe and claimed

to be belonging to Special Backward Class as his caste 'Koli Mahadeo' is notified as Special Backward Class. The caste claim of the petitioner as Special Backward Class has already been validated.

4. In identical set of facts vide Judgment and order in Writ Petition No. 3729 of 2014 along with companion petitions, we have held that the services of all such candidates, who initially claimed to be belonging to Scheduled Tribe but subsequently gave up their claim and restricted the claim of belonging to Special Backward Class, are entitled to protection if there is no finding of fraud played by such candidates.

5. We have requested Mr. Amol Deshpande, the learned counsel of the Zilla Parishad, Washim to find out as to whether the service record of the petitioner is blemished or clean.

6. Mr. Amol Deshpande, the learned counsel on instructions states that there is nothing adverse in the service record of the petitioner.

7. In that view of the matter, we find that the petition needs to be allowed. The services of the petitioner are directed to be protected. However, it is directed that the petitioner shall be considered to be the candidate belonging to Special Backward Class and not Scheduled Tribe. The entitlement of the petitioner to all service benefits would be from Special Backward Class and not from the Scheduled Tribe.

In future, while filling up the vacant posts, the Zilla Parishad shall take into consideration the appointment of the petitioner from Special Backward Class so that while filling up the posts in future necessary adjustments could be done in various categories.

The petition is allowed accordingly. No order as to costs.

JUDGE

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