

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

Writ Petition No.1971 of 2013

(Sanjiv s/o. Sharadrao Parthatay .vs. State and Ors.)

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

Court's or Judge's orders

Mr.N.C.Phadnis, Adv. for the petitioner.
Mr.A.S.Fulzele, A.G.P. for respondent no.1.
Mr.A.L.Deshpande, Adv. for respondent no.2
Mr.Abhay Sambre, Adv. for respondent no.4.

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

DATE : 23rd JANUARY, 2015.

Heard the learned Counsel for the respective parties.

Mr.N.C.Phadnis, learned Counsel for the petitioner points out that the challenge is restricted only to grant of protection in employment.

After hearing the learned Counsel for the respective parties, we find that the petitioner born on 7.5.1968 got caste certificate on 27.6.1980 i.e. during his minority, which reveals that he belongs to 'Halba' Scheduled Tribe. On the basis of that certificate, he completed his education and joined employment on 2.8.1997. His certificate was forwarded for verification to the Scrutiny Committee for the first time on 4.11.2011 and has been invalidated on 4.2.2013.

The documents relied upon by the petitioner before the Scrutiny Committee show certificate dt.7.8.1953

in respect of the petitioner's paternal grandfather which records his caste as 'Halba'. Another certificate dt.10.6.1958 records caste of his father as 'Halba'. The third certificate dt.7.7.1955 issued to the father of petitioner again mentions his caste as 'Halba'. These documents are not found to be tampered with or interpolated. The Scrutiny Committee has found that the old documents in which the caste was recorded either as 'Koshti' or then "M.Koshti" were not brought before the Caste Certificate issuing Authority and the caste certificate was obtained fraudulently. The caste certificate was obtained when the petitioner was 12 years old. The three documents (mentioned supra) are prior to his birth.

His employment is before coming into force of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Act XXIII of 2001). As such, he is entitled to protection as laid down by the Full Bench of this Court in **2015 (1) 457, Arun Vishwanath Sonone .vs. State and Ors.**

Accordingly, subject to the petitioner filing an undertaking before this Court and with his employer that neither he nor his progeny shall claim benefit or status of Scheduled Tribe within six weeks from today, we declare that the petitioner shall be entitled to protection as laid down by Full Bench of this Court in its Judgment (mentioned supra).

At this stage, Mr. Abhay Sambre, learned Counsel for respondent no.4 points out that the petitioner is already terminated on 3.5.2013. Learned Counsel for the petitioner has invited our attention to amended prayer clause. The petition was filed before this Court on 13.3.2013 i.e. prior to termination of petitioner.

In the above situation, we set aside the order of termination dt.3.5.2013 and direct respondent nos. 3 and 4 to reinstate the petitioner back in service with continuity, but without backwages.

The Writ Petition is, thus, partly allowed and disposed of. No costs.

JUDGE

JUDGE