

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1534 OF 2014

Anand S/o Sitaram Gondane

-vs-

Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur and another

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

Court's or Judge's Orders.

Mr.M.V.Bute, counsel for the petitioner.
 Mr.P.B.Pail, counsel for the respondent No.1.
 Mr.Rohit Deo, ASGI for the respondent No.2.

CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ.

DATE : 16.04.2015.

By this petition, the petitioner seeks the protection of his services in view of the judgment rendered by the Hon'ble Supreme Court in the judgment reported in 2012(1) SCC 549 (Dattu v. State of Maharashtra) and the unreported judgment of this Court dated 27/06/2014 in Writ Petition No.355 of 2014 (Mahendrakumar Namdeorao Hedao v. Scheduled Tribe Caste Scrutiny Committee and others).

Admittedly, the petitioner was appointed in the year 2003 by the respondents, i.e. after 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. The petitioner had secured the employment in the year 2003 on a post earmarked for the Scheduled Tribes. The petitioner claimed to belong to Halba Scheduled Tribe. The caste certificate of the petitioner was sent by the respondent No.2 to the respondent No.1-Scrutiny Committee,

for verification. The Scrutiny Committee, by the order dated 24/01/2014, invalidated the caste certificate. The petitioner challenged the order of the Scrutiny Committee in Writ Petition No.1203 of 2014. This Court dismissed the writ petition by an order dated 14/03/2014. While dismissing the writ petition, the Court had held that there was no infirmity in the order of the Scrutiny Committee. Also, the Court had noted that the Vigilance Cell had observed that in the admission register of the father of the petitioner, the name of the grandfather of the petitioner was initially recorded as 'Narayan Premadas Gonade' and subsequently the word "Gonade" was changed to "Gondane". The petitioner did not challenge the order dismissing the Writ Petition No.1203 of 2014 and the same has attained finality. The instant petition has been filed by the petitioner seeking protection of his services on the basis of the judgments referred to herein above.

It is stated on behalf of the respondents that the petitioner would not be entitled to the protection of his services as the appointment of the petitioner was made in the year 2003, i.e. after the coming into force of the Act of 2001 on 18/10/2001. Reliance has been placed on the judgment of the Full Bench of this Court, reported in 2015 (1) Mh.L.J. 457 (Arun v. State of Mah.) and specially paragraphs 65 and 66 thereof to deny the protection of services. It is stated that in view of the judgment of the Full Bench, after the coming into force of the Act of 2001 on 18/10/2001, the services of an employee cannot be protected if he is appointed after that date. It is stated that since the petitioner was appointed in the year 2003, the appointment of the petitioner was liable to be cancelled immediately on the rejection of his caste claim, by the Scrutiny Committee.

On hearing the learned counsel for the parties and on a perusal of the judgment of the Full Bench, it appears that the services of the petitioner cannot be protected. Admittedly, the petitioner was appointed after the coming into force of the Act of 2001 on 18/10/2001. The claim of the petitioner of belonging to Halba Scheduled Tribe was invalidated by the Scrutiny Committee by the order dated 24/01/2014. By the order dated 14/03/2014 in Writ Petition No.1203 of 2014, this Court had upheld the order of the Scrutiny Committee. In view of the law laid down by this Court in the judgment reported in **2015 (1) Mh.L.J.457**, the petitioner would not be entitled to protection of his services. The Full Bench of this Court has observed thus in para 66(d) of the judgment :-

“After coming into force of the said Act on 18/10/2001, no benefit or appointment can be obtained or secured in any public employment against a post reserved for any of the backward class categories merely on the basis of the production of a caste certificate and without producing a caste validity certificate from the Scrutiny Committee. Such appointments are not protected and shall be liable to be cancelled immediately upon rejection of the caste claim by the Scrutiny Committee.”

The Scrutiny Committee has invalidated the caste claim of the petitioner and the said order has attained finality after the dismissal of the writ petition challenging the order of the Scrutiny Committee. As the petitioner was appointed in the year 2003, the services of the petitioner cannot be protected. The services of the petitioner also cannot be protected as it is observed by the Scrutiny Committee in its order dated 24/01/2014 that the petitioner had not tendered

any explanation, much less a satisfactory explanation for adding some writing to the surname “Gonade” in the admission extract of his father so as to change it from “Gonade to Gondane”. The Scrutiny Committee has relied on the report of the Vigilance Cell which mentioned about the wrongful change in the surname from “Gonade to Gondane” in the admission register of the father of the petitioner. Since unauthorised changes were made in the admission register subsequently, the Scrutiny Committee found that the petitioner had falsely secured the benefits meant for Halba Scheduled Tribe. Since a finding in regard to the falsity of the claim is recorded by the Scrutiny Committee in paragraph 10 of the order dated 24/01/2014, the petitioner cannot seek the protection of his services.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE