

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

WRIT PETITION NO. 1921 OF 2010

(Subhash Shaligram Khobarkhede vs. State of Maharashtra thr. Secretary, Ministry of Tribal Welfare Department & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
APRIL 20, 2015.**

Heard Shri Joshi, Advocate with Shri Mardikar, learned Senior Advocate for the petitioner, Shri Fulzele, learned Additional GP for respondent Nos. 1, 3 & 4 and Shri Abhijeet Deshpande, learned counsel for respondent No. 2.

In the light of Full Bench judgment delivered by this Court in the case of Arun Vishwanath Sonone vs. State of Maharashtra & Ors., reported at 2015 (1) Mh.L.J. 457 (FB), Shri Joshi, learned counsel, upon instructions, restricts the claim only to grant of protection in employment. Civil Application No. 581 of 2015 has been filed to dispose of the petition accordingly.

The caste claim of the petitioner as belonging to *Koli Mahadeo*, Scheduled Tribe has been invalidated on 28.02.2005. He is born on 21.07.1963 and obtained caste certificate which discloses him as a person belonging to *Koli Mahadeo*, Scheduled Tribe in the year 1986. On the basis of that certificate, he got

employment on 06.07.1999 and then a reference was made to competent Scrutiny Committee. In accordance with the provisions of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, (Act No. 23 of 2001), the caste claim is invalidated on 28.02.2005.

A perusal of impugned order shows that all documents of the petitioner mention his tribe as *Koli Mahadeo*. The Scrutiny Committee did not find any tampering or interpolation insofar as those documents are concerned. The documents of ancestors reveal caste as *Koli*. On the basis of these inconsistent documents, the tribe claim of petitioner has been invalidated. However, the Committee has nowhere found the petitioner guilty of practicing any fraud or falsehood. In this situation, we find the petitioner entitled to protection.

Accordingly, subject to the petitioner filing an undertaking with this Court as also with his employer within six weeks from today that neither he nor his progeny shall claim the benefit or status as Scheduled Tribe person, his services shall remain protected in terms of Full Bench judgment mentioned *supra*.

Writ Petition is thus partly allowed and disposed of. There shall be no order as to costs.

JUDGE

JUDGE