

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

WRIT PETITION NO.2479 OF 2013

Khushal S/o Gomaji Neware

-vs-

Zilla Parishad, Gadchiroli, Through its Chief Executive Officer, Gadchiroli & 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 &
A.S.CHANDURKAR, JJ.**

DATE : 02.02.2015.

Heard Advocate Shri R. S. Parsodkar for petitioner, Advocate Shri Mokadam for respondent No.1-employer, Mrs Dangre for respondent No.2 and Shri A.S.Fulzele, AGP for respondent No.3.

Petitioner born on 22/06/1973 got caste certificate when he was about 17 years old i.e. On 18/08/1990 which reveals that he belongs to Gond Gowari Community. On the basis of that certificate, he got employment on 13/12/1995 as Gramsevak. His caste claim was sent for verification for the first time in 2007 and it has been invalidated on 16/04/2013. Advocate Parsodkar upon instructions argues writ petition only for grant of protection in employment in the light of Full Bench judgment of this Court reported at **2015(1) Mh.L.J. 457 (Arun Vishwanath Sonone Vs. State of Maharashtra & Ors)**. He submits that petitioner has been given caste certificate later on as belonging to Gowari community which is recognised as S.B.C

on 15/06/1995. He further states that no overwritings or erasures are found in caste document of the petitioner and only adverse observation cannot be used to hold that petitioner has practiced any falsehood or fraud.

Advocate Dangre for respondent No.2 relied upon observations in paragraph 11 of the order of Scrutiny Committee which show that petitioner is guilty of suppression. Learned AGP as also Advocate Shri Modadam supported the arguments of Advocate Dangre.

The adverse finding of Scrutiny Committee is that the caste of elder brother of petitioner was recorded either as Gowari or Goware. The Committee on the basis of this material found that had this caste certificate or document would have produced by petitioner, caste certificate which shows that he belongs to Gond Gowari Community, may not have been issued to him. Advocate Dangre also pointed that the result of affinity test is against the petitioner.

The confusion in respect of Gond Gowari community is well known. As a result of that confusion and some agitation, the Government later on recognised Gowari community as SBC on 15/06/1995. Here caste certificate showing petitioner belongs to Gond Gowari community i.e. S.T. was obtained during his minority. Scrutiny committee as such does not expressly refer to any active role played by him to enable us to hold that petitioner personally was privy to any falsehood or fraud. We therefore find him entitled for protection in employment. Subject to petitioner filing undertaking with the registry of this Court and with his employer within six weeks from today that neither he nor his progeny shall claim status or benefits as S.T. Community,

petitioner shall be entitled to protection of service in terms of Full Bench judgment (supra).

Writ petition is thus partly allowed and disposed of. No order as to costs.

JUDGE

JUDGE