

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

WRIT PETITION NO. 2508/2015

(Ramesh s/o Narayanrao Dekate vs. Joint Commissioner & Vice Chairman
Scheduled Tribe Certificate Scrutiny Committee and another)

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

Court's or Judge's order

Mr. S.R.Narnaware, Adv. for petitioner
Mr. Anand Deshpande, Adv. for respondent No.1
Mr. Arvind Dubey,h/for Mr. P.D.Meghe, Adv.for Respondent No.2

CORAM : B.R.GAVAI &
INDIRA K.JAIN, JJ.
DATED : 15th July, 2015.

Heard.

2. The petitioner, who was appointed in the employment of respondent no.2 against the post reserved for Scheduled Tribe, has approached this Court apprehending his termination on the ground of non-submission of caste validity certificate.

3. As has been observed time and again, it is not in the hands of the petitioner as to within how much time the respondent no.1-Scrutiny Committee will decide the claim of the petitioner. However, on account of respondent no.1 not taking decision regarding the validity of the candidates like the petitioner, the petitioner cannot be made to suffer. In

view of that, the petition is allowed on the following terms :

- i) Respondent No.1-Committee to decide the claim of the petitioner as expeditiously as possible and preferably within six months from today.
- ii) Till the decision of the respondent no.1 Committee on the claim of the petitioner, the services of the petitioner shall not be terminated on the ground of non-submission of caste validity certificate.
- iii) It is further directed that in the event, the decision of respondent no.1- Committee is adverse to the interest of the petitioner, same shall not be given effect for a period of three weeks from the date of receipt of the communication by the petitioner.

4. This Court has come across various matters wherein Lawyers who are appointed on the panel of various Scheduled Tribe Caste Certificate Scrutiny Committees have not appeared before the Court though the matters are allotted to them.

5. This Court has also come across various matters wherein one Law Officer appears for the State Government or its instrumentality since the employer is the State Government or its instrumentality and another Lawyer appears for the Scrutiny Committee. As such, in one matter the

Government is required to pay fees for two Lawyers.

6. It is to be noted that the Scrutiny Committees under the Social Welfare Department are using the services of the Government Pleader's office. In such matters, the Lawyers representing the Committee as well as the employer, if it is the State Government or the authorities subordinate to the State Government is represented by one Lawyer. It is to be noted that in such matters, since the Law Officers are allotted to a particular Court, the Law Officers are very much available before that Court when the matters are called out and, as such, there is no inconvenience caused to the Court and the matters are dealt with expeditiously. However, on account of there being a separate panel for Scrutiny Committee under the Tribal Welfare Department apart from the Government being required to pay twice, inconvenience is also caused to the Courts inasmuch as the matters are either required to be adjourned or passed over since the counsel appearing on behalf of the Scrutiny Committee/s are not available. It is to be noted that the functions of the Scrutiny Committees either under the Social Welfare Department or under the Tribal Welfare Department are one and the same. The Committees constituted

for both the Departments are under the very same Act. We, therefore, see no reason as to why when the Committees under the Social Welfare Department are represented by the Government Pleader's Office, the Committees under the Tribal Welfare Department should not be represented by the Government Pleader's Office.

7. In Criminal Appeal No. 161/2001 (Govinda Wanare vs.State of Maharashtra) vide order dated 11th September 2014, this Court has directed the State Government to ensure that while appointing Law Officers merit should alone be the criterion and appointment of the Law Officers should only be made by conducting the interviews, so that it is ensured that the Lawyers who are appointed, are meritorious.

8. It is to be noted that prior to the constitution of the panel, the Scrutiny Committees under the Tribal Welfare Department were represented by a single lawyer and it was noticed by the Court, that on account of the single lawyer being engaged by the Scrutiny Committee, different Courts were not in a position to get proper assistance. However, now it appears that the very purpose for

which the said panel was constituted is being frustrated.

9. We, therefore, direct the State Government to forthwith disband the panel of lawyers appearing for the Scrutiny Committees and and further direct that the State Government should ensure that the Committees under the Tribal Welfare Department are also represented by the Law Officers of the State Government.

10. Learned Government Pleader is directed to communicate this order to the Principal Secretary, Law and Justice Department as well as Principal Secretary, Tribal Welfare Department, forthwith.

JUDGE

JUDGE

saahase