

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

WRIT PETITION No.2722 OF 2013

(Vivekkumar Lajjashankar Chaurasiya .vs. Union of India, through its Secretary and Ors.)

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

Court's or Judge's orders

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

DATE : 16.2.2015.

Heard Mr.S.R.Narnaware, learned Counsel for the petitioner, Mr.S.K.Mishra, learned Counsel for respondent no.2 and Mr.Abhijit Deshpande, learned Counsel for respondent no.3.

Challenge in the petition is restricted only to seek protection of employment in terms of Full Bench Judgment reported at **2015 (1) Mh.L.J. 457, Arun s/o Vishwanath Sonone vs. State of Maharashtra, through its Secretary, Department of Education, Mantralaya, Mumbai-32 and Ors.**

We find that the petitioner - born in 7.8.1961 got caste certificate on 8.2.1989 and then, on that basis, got employment also on 25.8.1989. The certificate discloses the petitioner to be a person belonging to 'Nagwanshi' (Scheduled Tribe).

The Caste Certificate was sent for verification after almost 18 years i.e. on 19.1.2007 and has been invalidated on 30.3.2013.

All the documents pertaining to petitioner himself show that his caste was throughout recorded as 'Nagwanshi'. The competent Authority has issued him a Caste Certificate. His caste claim has been invalidated because of old documents of his forefathers which mention their caste as 'Tamboli'.

However, the impugned order of Scrutiny Committee nowhere finds any tampering or interpolation in the document/certificate of present petitioner. He is not found guilty of practising any falsehood or fraud. In this situation, we find the petitioner entitled to protection.

However, for submitting false certificate, the employer has conducted departmental enquiry and the petitioner has been dismissed on 13.3.2014 after this Court permitted the employer to impose punishment. The certificate is found to be false only because it has been invalidated. The difference between invalidation and certificate being false has been looked into in the Judgment of the Full Bench of this Court (mentioned supra) which overrules the earlier Full Bench Judgment in the case of **Ramesh Suresh Kamble .vs. State of Maharashtra, 2007 (1) Mh.L.J. FB 423.**

In this situation, the said order dt.13.3.2014 is quashed and set aside. The respondent no.2/employer shall reinstate the petitioner back in service with continuity, but without any backwages, within a period of one month from today.

Subject to the petitioner's filing an undertaking with the Registry of this Court and with his employer within a period of six weeks from today that neither he nor his

progeny shall claim status of benefit as a Scheduled Tribe candidate/person, his service shall remain protected in terms of the Full Bench Judgment in the case of Arun s/o Vishwanath Sonone vs. State of Maharashtra, through its Secretary, Department of Education, Mantralaya, Mumbai-32 and Ors.

The petition is, thus, partly allowed and disposed of.

JUDGE

JUDGE