

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

WRIT PETITION NO. 2689/2013.

Suresh yadavrao Khawas

VERSUS

The Committee for Scrutiny and Verification of Tribe Claims, Nagpur and others.

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
AND A.P. BHANGALE, JJ.

DATE : MARCH 03, 2015.

Heard Shri N.R. Saboo, learned Counsel for
the petitioner, Shri A.L. Deshpande, learned Counsel
for respondent no.1, Shri A.Y. Kapgate, learned
Counsel for respondent No.2 and Shri C.N. Adgaonkar,
learned A.G.P. for respondent no.3.

Shri Saboo, learned counsel upon
instructions from petitioner presses petition only for

protection in terms of Full Bench judgment of this Court in case of Arun Vishwanath Sonone .vrs. State of Maharashtra and others (2015 (1) Mh.L.J. 457).

Petitioner is born on 22.05.1962 and he got caste certificate on 01.09.1978, which revealed his caste as “Halba, Scheduled Tribe”. He claims that in 1982, he has been appointed as Junior Engineer in open category. In 1987 he got promotion as Sectional Engineer that too in open category. For the first time on 24.07.2001, because of his caste, he got promotion as Sub Divisional Engineer. However, according to Shri Saboo, learned Counsel the order of promotion does not contain any stipulation about caste certificate or need to submit validity. Caste claim was referred for the first time on 26.09.2011, and has been invalidated on 09.04.2013.

In this background, we have heard the learned counsel for the parties.

Perusal of impugned order of Scrutiny Committee shows that the scrutiny committee received a complaint on 04.05.2007 and complainant is real

brother of petitioner. The Scrutiny Committee thereafter has held enquiry through vigilance cell. Vigilance Cell Authorities could find out old documents where caste of his father and other relatives has been recorded as "Koshti". Because of these inconsistent documents, caste claim has been invalidated.

The Scrutiny Committee has in paragraph no.10 while considering the issue no.1, in sub-para nos. (iii) and (v) has recorded finding of suppression by the petitioner. However, when caste certificate was obtained, petitioner was hardly 16 years old and as such, what was the role played by him is not found out. Real brother of petitioner was complainant before the Scrutiny Committee and caste certificate, if any, issued to him has also not been brought on record. Thus, knowledge to petitioner of old documents or caste recorded therein is absent in present matter. In this situation, it cannot be said that the petitioner has obtained caste certificate by practicing any falsehood or by playing fraud.

The Scrutiny Committee has not found any

tampering or interpolation in the school records of petitioner.

In this situation, we find the petitioner entitled to protection of employment in terms of Full Bench judgment of this Court in case of *Arun Sonone .vs. State of Maharashtra (supra)*. Hence, subject to petitioner filing an undertaking with the Registry of this Court as also with his employer within a period of six weeks from today that neither he, nor his progeny shall claim status and benefit of Scheduled Tribe in future, his service shall stand protected.

Writ Petition is, partly allowed and disposed of. No costs.

Rgd

JUDGE

JUDGE