

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

WRIT PETITION NO.2861 OF 2013

Ku. Shobha Haribhau Warhade (Mrs. Shobha Ravi Dhatrak)

..vs..

State of Mah. and ors

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

Court's or Judge's order

Shri N.C. Phadnis, counsel for the petitioner.

Shri T.R. Kankale, AGP for R-1 & 2.

Shri Autkar, Adv. h/f Shri B. Dangre, counsel for R-3 & 4.

CORAM : B.P.DHARMADHIKARI &

A.P.BHANGALE, JJ.

DATE : JANUARY 23, 2015.

Heard.

The petitioner is born on 24.6.1961 and she got caste certificate which revealed that she belonged to caste “Banjara” on 5.5.1978. On the basis of that caste, she got employment with respondent No.4 on 15.11.1983. Her caste claim was forwarded for the first time for verification on 20.4.2007 and respondent No.2 – Committee has invalidated on 17.4.2013. In the light of the Full Bench Judgment of this Court in the case of **Arun S/o Vishwanath Sonone ..vs.. State of Mah., and ors**, reported at **2015(1) Mh.L.J. 457** Shri Phadnis, learned counsel, seeks protection in employment. He has placed

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reliance upon the confusion which prevailed for about 11 years after the employment was given to the petitioner.

Learned AGP for respondent Nos.1 and 2 so also Shri Autkar, learned counsel for respondent Nos.3 and 4, are opposing grant of any protection. According to them, the petitioner was fully aware that she does not belong to “Banjara” community and though she is from “Vanjari” community, she got incorrect or false certificate.

Perusal of order dated 17.5.2013 impugned before this Court is itself sufficient to note the confusion then prevailing.

The present petitioner got the certificate when she was about 17 years of her age. During enquiry, she has accepted that her father belongs to “Vanjari” caste but submitted that “Vanjari” and “Banjara” are one and the same.

Respondent No.2 – Committee itself has found that in the case of **State of Maharashtra and ors. ..vs.. Ganpat Pandurang Sankhe and**

anr. reported at 1991 Mh.L.J. 1075 noted the confusion and accordingly on 18.8.1992 a circular was issued to find out whether “Vanjari” and “Banjara” have got any affinity or bearing with each other. Thereafter, an expert committee presided over by Justice Wadhwa was also constituted for that purpose. On the basis of this, the State Government vide GR dated 23.3.1994 modified the list of VJNT. The caste “Banjara” has been thereafter included at Sr.No.30 in list of N.T. while caste “Vanjari” has been included at Sr.No.7. The Committee has found that the petitioner does not belong to caste “Banjara”. Therefore, the caste claim has been invalidated. There is no finding of any falsehood or fraud. On the contrary, it appears that the petitioner very clearly accepted the caste of her father as recorded and came up with defence that caste “Vanjari” and “Banjara” mean same thing. This confusion prevailed for about 11 years after she entered into employment.

We, therefore, find that she is entitled for grant of protection.

Subject to the petitioner’s filing an

undertaking with the Registry of this Court so also with the employer within a period of six weeks from today that she or her progeny shall not claim any benefits of or status as “Banjara” community. We declare that she is entitled for protection of service as directed by the Full Bench Judgment of this Court cited *supra*.

Thus, the writ petition is partly allowed and disposed of.

JUDGE

JUDGE

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