

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

Writ Petition No. 3002 of 2015

(Ku. Shalini d/o Kishor Sardar Vs. The Divisional Caste Verification Committee
No. 1, Amravati through its President/Secretary and anr.)

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

Court's or Judge's order

Shri P. R. Puri, Advocate for the petitioner
Ms. P. D. Rane, AGP for the respondent no. 1

**CORAM : Smt. V. A. Naik and
P. B. Varale, JJ.**

DATE : 18-11-2015.

Heard.

Though the petitioner has challenged the order of the Scrutiny Committee and in the alternative has sought protection of her services by issuance of appropriate directions to the Deputy Commissioner, Municipal Corporation, New Mumbai, the learned counsel for the petitioner submitted on 17-11-2015 that the petitioner is not desirous of challenging the order of the Scrutiny Committee and is only seeking the protection of her services.

If that be so, we are firmly of the view that the petitioner would be required to file the writ petition at the Principal Seat for seeking protection of the service as the petitioner admittedly works in

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Municipal Corporation, New Mumbai and the same falls within the jurisdiction of the Principal Seat. If the order of the Scrutiny Committee is not challenged and if the petitioner is only seeking the protection of her services, then the petitioner would be required to file a petition at the Principal Seat. If the respondent no. 2 issues a notice of proposed termination to the petitioner, the petitioner would be required to file the writ petition at the Principal Seat.

If only protection of service is sought, the respondent no. 1 would not be a necessary party or a proper party and only the respondent no. 2 would be the necessary party. The office of the respondent no. 2 as well as the services of the petitioner fall within the territorial jurisdiction of the Principal Seat. We have noticed this earlier that if protection of services is sought and notices are issued to the respondents that do not fall within the territorial jurisdiction of the Nagpur Bench, the employer is not represented in this Bench. Before granting protection of services, it is necessary for this Court to consider whether an employee was really appointed before the

cut-off date and is actually in service on the date on which the petition was filed and whether his services could be protected in terms of the Full Bench judgment.

If the matter would not fall within the territorial jurisdiction of the Nagpur Bench and if the employer remains unrepresented, it would not be proper to decide the matter and grant protection of services to such an employee without verifying the facts. In any case, since no cause of action in regard to the protection of service would arise within the territorial jurisdiction of the Nagpur Bench, it would be necessary for the petitioner to file appropriate proceedings before the Principal Seat.

In view of the aforesaid, Shri Puri, learned counsel for the petitioner seeks liberty to withdraw the writ petition so that the petitioner could approach the Principal Seat. The learned counsel, however, seeks the continuation of the stay to the order of the Scrutiny Committee for a period of eight weeks.

We would not grant stay to the order of the Scrutiny Committee as the petitioner has given up the challenge to the order of the Scrutiny Committee. However, we would protect the services of the petitioner for a period of eight weeks for taking steps to file proceedings before the Principal Seat.

With the aforesaid observations, the writ petition is disposed of with no order as to costs.

JUDGE

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