

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

WRIT PETITION NO.4204/2015

Shri Govind Natthu Sapkal

...Versus...

Scheduled Tribe Caste Certificate Scrutiny Committee Advasi Vikas Bhavan
2nd Floor, Giripeth, Nagpur and another

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

Court's or Judge's orders

Shri S.D. Khati, Advocate for petitioner
Ms N.P. Mehta, AGP for respondent no.2

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 20.08.2015

By this petition the petitioner seeks the protection of his services in view of the judgment of the Full Bench of this Court, reported in **2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone...Versus...State of Maharashtra and others).**

The petitioner was appointed as a peon by the respondent no.2 on 1.4.1999. The appointment of the petitioner was on the post earmarked for the Scheduled Tribes. The petitioner claimed to belong to 'Mahadeo Koli Scheduled Tribe' and the caste claim of the petitioner was sent to the Scrutiny Committee for verification. The Scrutiny Committee rejected the claim of the petitioner by the order dated 27.1.2000. The petitioner challenged the order of the Scrutiny Committee in Writ Petition No.2019/2000 but the same was dismissed. The services

of the petitioner were terminated on 16.5.2000 in view of the rejection of his caste claim. In view of the judgment of the Full Bench, reported in **2015 (1) Mh.L.J. 457**, the petitioner has sought his reinstatement in service and the protection of his services.

It is stated on behalf of the petitioner that the petitioner was appointed before the cut off date on 1.4.1999 and there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently claimed the benefits meant for the 'Mahadeo Koli Scheduled Tribe'. It is submitted that the case of the petitioner stands covered by the judgment of the Full Bench of this Court and it is, therefore, necessary to direct the respondent no.2 to reinstate the petitioner in service and protect his services on the post of peon.

Ms Mehta, the learned Assistant Government Pleader appearing on behalf of the respondent no.2 does not dispute that there is no observation in the order of the Scrutiny Committee that the petitioner has played fraud on the Scrutiny Committee and has sought the benefits meant for the 'Mahadeo Koli Scheduled Tribe'. It is submitted that since the petitioner's services were terminated in the year 2000, the petitioner would not be entitled to claim the salary for the period during which the petitioner was out of service. The learned Assistant Government Pleader, however, does not dispute the position of law as laid down by the Full Bench of this Court, in the judgment, reported in **2015 (1) Mh.L.J. 457**.

On hearing the learned Counsel for the parties and on a perusal of the judgment of the Full Bench and the order of the Scrutiny Committee, it appears that the services of the petitioner

are required to be protected as both the conditions that are required to be satisfied for seeking the protection of the services are fulfilled by the petitioner in this case. The petitioner was appointed before the cut off date on 1.4.1999 and there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently claimed the benefits meant for the 'Mahadeo Koli Scheduled Tribe'. It is rightly submitted on behalf of the respondent no.2 that the petitioner would not be entitled to claim the salary and the other monetary benefits for the period during which he has not worked with the respondent.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondent no.2 is directed to reinstate the petitioner in service on the condition that the petitioner furnishes an undertaking within a period of four weeks in this Court and to the respondent no.2 that neither the petitioner nor his progeny would claim the benefits meant for the 'Mahadeo Koli Scheduled Tribe', in future. The services of the petitioner should be protected and the petitioner would be entitled to continuity of service. Though the petitioner would be entitled to continuity of service, the petitioner would not be entitled to the salary and the other monetary benefits for the period during which the petitioner has not worked with the respondent no.2.

Order accordingly. No costs.

JUDGE

JUDGE