

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

WRIT PETITION NO. 3292 OF 2013

(Shri Pramod Vithalrao Ital vs. The State of Maharashtra thr. Secretary, Department of Education & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.
JANUARY 28, 2015.**

Heard Shri Joshi, learned counsel for the petitioner, Shri Kankale, learned AGP for respondent Nos. 1 & 2.

In the present writ petition, besides challenging the notice dated 26.03.2013 issued by Respondent Nos. 3 & 4, the petitioner has sought protection of his services in terms of decision of Full Bench of this Court in the case of Arun Vishwanath Sonone vs. State of Maharashtra & Ors., 2015 (1) Mh.L.J. 457 (FB).

On the request made by the learned counsel for the petitioner, leave granted to add the Scheduled Tribe Scrutiny Committee, Amravati, as Respondent No. 5. Amendment be carried out forthwith.

Shri Autkar, Advocate holding for Mrs. Dangre, learned counsel waives notice for the newly added Respondent No. 5.

The petitioner, who was born in the year

1974 was appointed as an Assistant Teacher with effect from 20.11.1999. His entry in service was as a candidate belonging to 'Halba' Scheduled Tribe. Thereafter, on 30.07.2001, a caste certificate showing the petitioner as belonging to Special Backward Class – Koshti came to be issued and the same was duly verified by the Scrutiny Committee on 17.05.2013. The post held by the petitioner was shown in the roster in the year 2008 as being reserved for Vimukta Jati (A). There was no backlog when the aforesaid roster point was verified. By the impugned communication, the petitioner has been called upon to submit validity certificate as belonging to Halba Scheduled Tribe. The petitioner is presently in employment and hence seeks protection of his services.

Considering the fact that the petitioner was initially appointed on 20.11.1999 as a Scheduled Tribe candidate, the caste certificate relied while securing employment will have to be first verified to determine if the claim as made was not false or fraudulent. The issue as regards to entitlement of protection of service can be considered in the light of decision of Full Bench after the said caste certificate is subjected to verification. The caste certificate in that regard having not yet been verified, directions can be issued to Respondent No. 5 to undertake the exercise of verification.

In the light of aforesaid facts, interests of justice could be served by passing the following order:

1. Respondent Nos. 3 & 4 shall forward all original documents of the petitioner in relation to his claim of belonging to Halba Scheduled Tribe. If such documents have not yet been submitted by the petitioner, the same shall be so submitted to Respondent No. 3 & 4 within a period of three weeks from today.
2. After receipt of aforesaid documents, Respondent Nos. 3 & 4 shall forward said documents to Respondent No. 5.
3. The petitioner shall appear before Respondent No. 5 – Committee on 03.03.2015 to facilitate the exercise of verification. The said exercise be completed within a period of eight months from the date of appearance of the petitioner before the said Committee.
4. The interim order passed on 27.06.2013 shall continue to operate till the process of verification is completed. The said interim order would be subject to outcome of the verification proceedings.
5. The prayer of protection of petitioner's services and defence available to Respondent Nos. 3 & 4 can be considered after said exercise of verification is completed.

With the aforesaid directions, writ petition stands disposed of. No order as to costs.

JUDGE

JUDGE

*G.S.