

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

WRIT PETITION NO.2744 OF 2014

Umesh S/o Hariram Nandanwar

..VS..

Mormugao Port Trust, thr its Chairman, Goa 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 R.S. Parsodkar, counsel for the Petitioner.
Shri S.K. Mishra, counsel for R-1 & 2.
Shri Abhijeet Deshpande, counsel for R-3.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 21, 2015.

Heard.

The petitioner, who joined employment in the year 1987 as “Halba” (Scheduled Tribe) candidate with respondent Nos.1 and 2, has been removed from service by order dated 7.4.2014. The removal is because of adverse Vigilance Cell Report received by respondent No. 3 – Caste Scrutiny Committee during exercise of the verification of the caste claim of the petitioner and independent departmental enquiry conducted by respondent Nos.1 and 2. This Court has, on 17.6.2014 while issuing notice in the matter, granted *ad interim* relief

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and hence, the petitioner continues in employment.

Shri R.S. Parsodkar, learned counsel for the petitioner, submits that, as the caste claim of the petitioner is still pending, the employment of the petitioner cannot be dispensed with. He further submits that, in any case, the law on the protection is settled by the Full Bench Judgment of this Court in the case of Arun s/o Vishwanath Sonone ..vs.. State of Maharashtra & ors, reported at 2015(1) Mh.L.J. 457 and hence, even in case the caste claim of the petitioner is decided against him, the petitioner cannot be terminated. He seeks expeditious consideration of the pending caste claim.

Shri S.K. Mishra, learned counsel for respondent Nos.1 and 2, submits that, as the petitioner failed to submit his Caste Validity Certificate and time was given to him, for that purpose, independent departmental enquiry was conducted. The Vigilance Cell Report was used as part of the evidence during that enquiry. After holding the petitioner guilty, proper

punishment has been inflicted upon him. He, therefore, requests this Court not to intervene in the matter.

Shri Abhijeet Deshpande, learned counsel for respondent No.3 – Caste Scrutiny Committee, submits that, though oral request for expeditious consideration of the caste claim of the petitioner has been made now, the petition was not filed for that purpose.

After hearing the learned counsel for the respective parties, we find that in somewhat similar situation, this Bench has on 8.1.2015 admitted Writ Petition No.4267 of 2013. The Caste Scrutiny Committee was directed to expeditiously decide the caste claim of the petitioner.

Here, as the petitioner is continuing in service, we find that respondent No.3 – Caste Scrutiny Committee can be directed to consider the caste claim of the petitioner, at the earliest, and in any case, within a period of four months from the date on which the petitioner is directed to appear before the said Committee.

We direct the petitioner to appear before the Caste Scrutiny Committee on **16.2.2015** and to abide by its further instructions in the matter.

Till the Caste Scrutiny Committee decides the case claim of the petitioner, *ad interim* order granted by this Court on 17.6.2014 shall continue and shall be subject to it.

The prayer for protection is kept open and shall be looked into thereafter if occasions therefor arises.

With these directions, we dispose of the writ petition. There shall be no order as to costs.

JUDGE

JUDGE

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