

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3722 OF 2015

Girijabai W/o Kisanrao Masram

-vs-

The State of Maharashtra and others

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

Court's or Judge's Orders.

Mr.Vikas Kulsange, counsel for the petitioner.
Ms N. P Mehta, A.G.P for the respondent No.1.
Mr. N. R. Saboo, counsel for the respondent No.2.

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

DATE : 28.08.2015.

By this petition, the petitioner seeks a declaration that the petitioner is entitled to be promoted to the post of headmistress from scheduled tribes category from the year 1997 and a direction be issued to the respondent Nos. 2 and 3 to promote her as such.

It is the case of the petitioner that though the petitioner was entitled for promotion to the post of headmistress in 1997, the respondent-Management had wrongly promoted Shri Sudhakar Parate as the headmaster. It is stated that after the caste claim of Shri Sudhakar Parate was invalidated, Shri Sudhakar Parate was reverted and he filed a writ petition challenging his reversion and interim stay was operating in the said writ petition, with the result that Shri Sudhakar Parate continued to hold the post of headmaster. By the judgment, dated 03/07/2015, according to the petitioner, this Court held that Shri Sudhakar Parate was not entitled to retain the promotional benefits after the invalidation of his caste claim. In view of the judgment in the case of Shri Sudhakar Parate, the petitioner has filed the instant petition seeking the aforesaid declaration.

The relief sought by the petitioner cannot be granted. Merely because the petitioner was eligible to be promoted on the post of headmistress, the petitioner cannot seek the promotion to the post of headmistress from the scheduled tribes category with effect from 1997, specially after her retirement from service. The petition has been filed after the petitioner was superannuated. The petitioner, therefore, cannot seek a direction to the respondents to promote the petitioner on the post of headmistress. Shri Sudhakar Parate continued to work on the post of headmaster till the petition filed by him was dismissed on 03/07/2015. Merely because the petitioner was eligible to be promoted from the year 1997, a direction cannot be issued to the respondents to promote the petitioner after her retirement. A mere eligibility of an employee cannot help the employee in securing the monetary benefits of the post to which the employee is entitled to be promoted. Admittedly, Shri Sudhakar Parate worked on the post of headmaster from 1997 till 03/07/2015 and the petitioner had worked as an Assistant Teacher.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE