

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

WRIT PETITION NO.3473/2014

Vijay s/o Madhukar Sonone

...Versus...

Chief Executive Officer, Zilla Parishad, Buldhana, Tq. Distt. Buldhana 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 M.V. Bute, Advocate for petitioner
Shri G.G. Mishra, Advocate for respondent no.1
Shri K.P. Sadavarte, Advocate for respondent no.2

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : 17.03.2015

Heard.

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

The petitioner had claimed to belong to Mahadeo Koli, Scheduled Tribe. The appointment of the petitioner as an assistant teacher was made by the respondent on 30.6.1995 on a post earmarked for the Scheduled Tribe Category. The caste claim of the petitioner was sent to the Scrutiny Committee for verification. The Scrutiny Committee, however, by the order dated 26.12.2006 invalidated the caste claim of the petitioner.

After the order of the Scrutiny Committee was conveyed to the respondent – Zilla Parishad, the Zilla Parishad terminated the services of the petitioner by the impugned order dated 24.10.2008.

The learned Counsel for the petitioner states that the petitioner gives up his claim to Mahadeo Koli, Scheduled Tribe and is not desirous of challenging the order of the Scrutiny Committee invalidating his tribe claim. It is sated that since the petitioner is appointed in the year 1995, in view of the judgment of the Full Bench of this Court in the case of Arun s/o Vishwanath Sonone...Versus...State of Maharashtra and others (Supra), the services of the petitioner need to be protected.

The learned Counsel for the Zilla Parishad states that the petitioner is terminated as early as in the year 2008 and even if this Court protects the services of the petitioner, the Zilla Parishad should not be fastened with the liability to pay the salary of the petitioner from the date of his termination till the date he is reinstated in service.

Shri Sadavarte, the learned Counsel for the Scrutiny Committee on a perusal of the order of the Scrutiny Committee states that it is not the case of the Scrutiny Committee that the petitioner has made a false claim or has fraudulently secured the benefits available to the Scheduled Tribe Category.

On hearing the learned Counsel for the parties, it appears that the petitioner is entitled to the protection of his services in view of the law laid down in the judgment in the case of Arun s/o Vishwanath Sonone...Versus...State of Maharashtra and others (Supra), as the Scrutiny Committee has

merely invalidated the caste claim of the petitioner by the order dated 26.12.2006.

On a perusal of the order of the Scrutiny Committee, we do not find that the Scrutiny Committee has made any observation in regard to the falsity in the claim of the petitioner. We also do not find that the petitioner had played any fraud on the Committee or on the employer while seeking the benefits available to the Scheduled Tribe Category.

In these circumstances, the services of the petitioner need to be protected and the direction needs to be issued to the respondent – Zilla Parishad to reinstate the petitioner in service with continuity. However, since the petitioner has not worked as an assistant teacher from 24.10.2008, the petitioner would not be entitled to the salary for the period from the date of his termination till the date of his reinstatement. We direct the respondent – Zilla Parishad to reinstate the petitioner in service within a period of two weeks on the petitioner furnishing an undertaking to this Court and also to the respondent – Zilla Parishad that neither the petitioner nor his progeny would claim the benefits provided to the members of the Scheduled Tribe on a claim of belonging to Koli Mahadeo, Scheduled Tribe. The petitioner would also not be entitled to seek promotion on that basis.

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

JUDGE

Wadkar

JUDGE