

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

WRIT PETITION No.3890 OF 2013

(Tulshiram s/o. Sadashiv Badlu .vs. Joint Commissioner & Vice Chairman, ST Caste
Certificate Scrutiny Committee, Nagpur and anr.)

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

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 25th FEBRUARY, 2015.

Heard Mr.S.R.Narnaware, learned Counsel for the petitioner, Mr.Abhijit Deshpande, learned Counsel for respondent no.1 and Mr.R.E.Moharir, learned Counsel for respondent no.2.

Mr.S.R.Narnaware, learned Counsel for the petitioner restricts his argument to grant of protection in employment in the light of the Full Bench Judgment of this Court reported in **2015 (1) Mh.L.J. 457, Arun Vishwanath Sonone vs. State of Maharashtra, through its Secretary, Department of Education, Mantralaya, Mumbai-32 and Others**. He points out that, after initial invalidation of caste claim of the petitioner as belonging to 'Halba' Scheduled Tribe on 6.3.2006, the petitioner was terminated on 30.5.2006 and even today, he is out of employment.

The petitioner is born on 30th March, 1972 and he obtained caste certificate on 22.7.1998. He came to be appointed by respondent no.2 on 8.10.1999. His caste claim was referred to the Caste Scrutiny Committee on 19.12.2002

and the caste claim has been invalidated on 6.3.2006.

The petitioner questioned the said order of invalidation in Writ Petition No.2616 of 2006 and in that petition, he also sought protection in employment. The petition was disposed of on 24.4.2009 by placing the matter back before the Scrutiny Committee. Prayer of the petitioner for protection was not considered as he was already out of employment.

The Scrutiny Committee had not decided the matter expeditiously and therefore, the petitioner approached this Court in Writ Petition No.4662 of 2010 for a direction to the Scrutiny Committee. The caste claim thereafter has been invalidated again by the impugned order on 7.9.2013.

With the assistance of the respective Counsel, we have perused the above-mentioned order. It shows that all the documents of the petitioner record his caste as 'Halba'. The Vigilance Cell got old documents of uncle of the petitioner which recorded his caste as 'Koshti'. On the basis of these inconsistent old documents, the caste claim of the petitioner has been invalidated. However, the Scrutiny Committee has not found any interpolation or tampering in the school records of the petitioner. It has not recorded any finding of fraud or falsehood practised by the petitioner while procuring the caste certificate.

It is apparent that, after initial invalidation on 6.3.2006, the services of the petitioner came to be terminated on 30.5.2006 and as such, this Court, while disposing of the earlier challenge on 24.4.2009, did not reinstate him back in service. The caste claim was then

remanded back to the Scrutiny Committee.

The law on the point is now well settled. We find that the petitioner is, therefore, entitled to grant of protection in employment. However, he cannot be given backwages for the period from 30.5.2006 till his reinstatement.

Accordingly, subject to petitioner's filing an undertaking with the Registry of this Court and with his employer within six weeks from today that neither he nor his progeny shall claim status or benefits as a Scheduled Tribe person, his services shall remain protected as per the law declared by the Full Bench of this Court (mentioned supra) and the petitioner shall be reinstated back in employment with continuity of service and all consequential benefits but without backwages within a period of one month of this undertaking.

The Writ Petition is, thus, partly allowed and disposed of. No costs.

JUDGE

JUDGE