

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

WRIT PETITION NO. 3452/2014
 (RANJITA JAGESHWAR MOON **VERSUS** THE E.O. (S) Z.P., NAGPUR & OTHERS)

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

Court's or Judge's orders

Shri P.A. Abhyankar, counsel for the petitioner.
 Shri N.R. Rode, A.G.P. for the R-1.
 Shri P.P. Thakre, counsel for the R-2 & 3.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : JUNE 24, 2015.

By this petition, the petitioner seeks a direction to the respondent nos.2 and 3 to protect her services in view of several judgments rendered by the Hon'ble Supreme Court and this Court.

The petitioner belongs to Kalar caste by birth, which is included in the Other Backward Classes. The petitioner was married to Jageshwar Moon who belongs to Mahar Scheduled Caste, in the year 1982. As per the law laid down by the High Courts at the relevant time, the petitioner was granted a certificate of belonging to Mahar Scheduled Caste. On the basis of the said certificate, the petitioner secured employment as an Assistant Teacher in the respondent no.3-Institution run by the respondent no.2-Society on 29.06.1998. Since the petitioner did not produce the certificate validating the caste certificate of the petitioner, the respondent nos.1 and 2 proposed to terminate the services of the petitioner. The petitioner has sought the protection of her services on the basis of the Full Bench judgment rendered by this Court in the case of *Arun Vishwanath Sonone Versus State of Maharashtra & Others*, reported in 2015 (1) Mh.L.J. 457.

Shri Abhyankar, the learned counsel for the petitioner, submitted that the petitioner is entitled to protection as the petitioner was appointed as an Assistant Teacher in the respondent no.3-School before the cut-off date on 29.06.1998. It is stated that when the petitioner sought appointment in the year 1998, the petitioner believed that she belongs to the Scheduled Caste as she had married a person belonging to the said caste. It is stated that on the basis of the law then existing, the petitioner was also granted a certificate of belonging to the Scheduled Caste. It is stated that the petitioner did not wrongly seek the benefits meant for the Scheduled Castes by producing a false caste certificate, at the relevant time. It is stated that the appointment was sought by the petitioner on the bona fide belief that she belongs to the Scheduled Caste and in such circumstances, the appointment of the petitioner needs to be protected as it was made before the cut-off date on 29.06.1998. It is stated that after there was a change in the law and it was held that the caste of a person would be determined on the basis of his birth and not on the basis of his marriage, the petitioner had secured the certificate of Kalar caste which falls in the Other Backward Classes. It is stated that the said certificate was sent to the Scrutiny Committee for verification and the Scrutiny Committee has validated the claim of the petitioner belonging to Kalar Caste which falls in the Other Backward Classes. The petitioner has sought the protection of her services in the aforesaid background.

Shri Rode, the learned Assistant Government Pleader and Shri Thakre, the learned counsel for the respondent nos.2 and 3, do not dispute the legal position in regard to the protection of the services of the employees appointed before the cut-off date and who have not fraudulently sought the benefits meant for the reserved castes or tribes.

On hearing the learned counsel for the parties, it appears that the services of the petitioner are required to be protected. The petitioner has rightly relied on the judgment in the case of *Arun Vishwanath Sonone Versus State of Maharashtra & Others*, reported in **2015 (1) Mh.L.J. 457** for seeking the protection of her service. The petitioner possesses a validity certificate validating the caste of the petitioner Kalar, which falls in Other Backward Classes. It appears that at the relevant time when the petitioner was appointed, the petitioner bona fide believed that she belongs to the Scheduled Caste having married to the person belonging to the caste category. The case of the petitioner that the petitioner believed at the relevant time that in view of the law which was then existing the caste of the petitioner changed from Kalar (Other Backward Classes) to Mahar (Scheduled Caste), after her marriage to Shri Jageshwar Moon is credible. Since the petitioner was appointed before the cut-off date and the petitioner had not illegally and fraudulently sought the benefits meant for the Scheduled Castes while securing the employment, the services of the petitioner are required to be protected.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent nos.2 and 3 are directed to protect the services of the petitioner on the petitioner furnishing an undertaking in this Court and to the respondent nos.2 and 3 within a period of three weeks that the petitioner would not claim any benefits meant for the Scheduled Castes, in future. It is needless to mention that the petitioner would not be entitled to the promotional benefits as a Scheduled Caste employee.

Order accordingly. No costs.

JUDGE

JUDGE