

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

WRIT PETITION NO. 3688/2015

(RAJENDRA NAMDEO INGLE **VERSUS** S.T. CASTE CERTIFICATE SCRUTINY COMMITTEE,
 AMRAVATI & ANOTHER)

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

Court's or Judge's orders

 Shri S.D. Khati, counsel for the petitioner.
 Ms. N.P. Mehta, A.G.P. for the R-1.
 Shri V.G. Wankhede, counsel for the R-2.

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

DATE : AUGUST 25, 2015.

By this petition, the petitioner seeks a direction to the respondent no.2-Corporation to reinstate the petitioner in service in view of the law laid down by the Full Bench of this Court in the judgment reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*) and further protect the services of the petitioner on the said post.

The petitioner was appointed as an Assistant Mechanic by the respondent no.2-Corporation on 25.07.1995 on a post earmarked for the Scheduled Tribes. The petitioner claims to belong to Koli Mahadeo Scheduled Tribe and the tribe claim of the petitioner was sent to the Scrutiny Committee for verification. The Scrutiny Committee invalidated the claim of the petitioner by an order dated 20.10.2003. The services of the petitioner were terminated by an order dated 30.12.2003. The petitioner filed a writ petition challenging the order of the Scrutiny Committee but, the same was withdrawn. In view of the judgment of the Full Bench and the judgments rendered by the Hon'ble Supreme Court, the petitioner has sought the protection of his services after his reinstatement.

It is stated on behalf of the petitioner that the petitioner was appointed before the cut-off date on 25.07.1995 and though the caste claim of the petitioner was invalidated, there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently claimed the benefits meant for Koli Mahadeo Scheduled Tribe. It is stated that since both the conditions that are required to be fulfilled, in view of the judgment of the Full Bench, are satisfied in the case of the petitioner, the petitioner's services are required to be protected. It is stated that a direction be issued to the respondent no.2-Corporation to reinstate the petitioner in service and to protect his services.

Ms Mehta, the learned Assistant Government Pleader appearing on behalf of the State-Government and Shri Wankhede, the learned counsel for the respondent no.2-Corporation, do not dispute the position of law as stated in the judgment of the Full Bench reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*). The learned counsel for the respondents fairly admit that there is no observation in the order of the Hon'ble Scrutiny Committee that the petitioner has fraudulently claimed the benefits meant for the Koli Mahadeo Scheduled Tribe. The counsel for the respondents further admit that the appointment of the petitioner was made before the cut-off date. The learned counsel for the respondent no.2-Corporation states that if the petitioner is entitled to be reinstated, the petitioner should not be granted the salary for the period during which he was out of service.

On hearing the learned counsel for the parties and on a perusal of the judgment of the Full Bench and the order of the Scrutiny Committee, it appears that a direction is required to be issued against the respondent no.2-Corporation to reinstate the petitioner in service and to protect his services as Assistant Mechanic. The petitioner was appointed before the cut-off date and there is no observation in the order of the Scrutiny Committee that

the petitioner has fraudulently secured the benefits meant for Koli Mahadeo Scheduled Tribe. Hence, by applying the law laid down by the Full Bench, the petitioner is entitled to the relief sought.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondent no.2-Corporation is directed to reinstate the petitioner in service on the condition that the petitioner furnishes an undertaking in this Court and to the respondent no.2-Corporation within a period of four weeks that neither the petitioner nor his progeny would claim the benefits meant for Koli Mahadeo Scheduled Tribe, in future. The respondent no.2-Corporation should reinstate the petitioner in service within a period of two weeks from the date of submission of the undertaking. Since the petitioner has not worked with the respondent no.2-Corporation from the date of his termination till he would be reinstated and since the caste claim of the petitioner is rejected, the petitioner would not be entitled to salary or other monetary benefits for the period during which he was out of service. It is, however, made clear that the petitioner would be entitled to continuity in service though he would not be entitled to monetary benefits for the period for which he had not worked.

Order accordingly. No costs.

JUDGE

JUDGE

APTE