

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

WRIT PETITION NO. 4023 of 2013

(Kalpana w/o Vijay Tapke Vs. State of Mah. through its Secretary, Dept. of
Education and ors.)

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

Court's or Judge's order

**CORAM : B.P.DHARMADHIKARI &
S. B. SHUKRE, JJ.**

DATE : 22-4-2015.

Shri Joshi, learned Advocate for the petitioner seeks leave to join the Scheduled Tribe Certificate Scrutiny Committee, Amravati as party respondent no. 4. Leave granted.

Advocate Deshpande present in the court waives notice for added respondent.

Only question to be looked into is whether services of the petitioner can be terminated for her failure to submit validity as belonging to "Koli Mahadeo", Scheduled Tribe. It is not in dispute that subsequently, the petitioner has obtained a certificate which shows her as SBC candidate and that certificate has also been validated. However, by the impugned communication dated 19-6-2013 ignoring this development and for failure to submit validity as

“Koli Mahadeo”, Scheduled Tribe, the services of the petitioner have been terminated. This Court while issuing notice in the matter protected her employment. It is not in dispute that she joined employment on 28-6-1997.

In this situation, following a Full Bench judgment of this Court in the case of *Arun Vishwanath Sonone Vs. State of Maharashtra and ors.* reported at **2015(1) Mh.L.J. 457**, it is apparent that services of the petitioner cannot be terminated unless and until there is a finding that the petitioner has obtained her certificate showing her as belonging to Scheduled Tribe by playing fraud or by practising falsehood. Here, the petitioner has not submitted the documents with respondent no. 4 for verification.

In this situation, we direct the petitioner to submit necessary documents for said purpose to her employer (respondent no. 3) within a period of four weeks from today.

Respondent no. 3 shall forward those documents to respondent no. 4 within next four weeks.

Respondent no. 4 shall then attempt to complete the verification in accordance with Maharashtra Scheduled Castes, Scheduled

Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act (Act No. 23 of 2001) within next one year.

Interim orders passed by this Court to continue till then and shall be subject to it. Entitlement of petitioner for grant of protection in employment shall be considered thereafter if occasion therefor arises. Subject to this, impugned order dated 19-6-2013 is quashed and set aside.

The writ petition is partly allowed and disposed of.

JUDGE

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