

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

WRIT PETITION NO. 3795 OF 2015

Madhukar Diwakarr Sirsat

-vs-

Divisional Caste Certificate Scrutiny Committee and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.D.Khati, counsel for the petitioner.
Mr. D.M.Kale, A.G.P for the respondent No.1.
Mr. V. G. Wankhede, counsel for the respondent No.2.

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

DATE : 28.08.2015.

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 judgment, reported in **2015 (1) Mh.L.J. 457 (Arun v. State of Maharashtra).**

The petitioner was temporarily appointed as a driver by the respondent No.2-Corporation on 21/03/1996 on a post earmarked for the scheduled tribes and was undergoing training for four years. Thereafter the petitioner was appointed on 12/07/2000. The petitioner claimed to belong to Koli Mahadeo Scheduled Tribe. The caste claim of the petitioner was referred to the respondent No.1-Scrutiny Committee for verification. The Scrutiny Committee invalidated the caste claim of the petitioner by an order dated 04/10/1999. The respondent-No.2-Corporation terminated the services of the petitioner on 13/04/2009, as the petitioner had failed to produce the caste validity certificate.

The learned counsel for the petitioner states that the petitioner was appointed before the cut-off date on 21/03/1996 and there is no observation in the order of the Scrutiny Committee that the petitioner has illegally and fraudulently secured the benefits meant for the Mahadeo Koli Scheduled Tribe. It is stated

that in the circumstances of the case, the case of the petitioner would stand covered by the judgment of the Full Bench, reported in 2015 (1) Mh.L.J. 457 and a direction is required to be issued to the Respondent No.2-Corporation to reinstate the petitioner in service and protect his services.

The learned counsel for the respondent-Corporation does not dispute that the petitioner was appointed before the cut-off date on 21/03/1996 and there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently secured the benefits meant for the Mahadeo Koli Scheduled Tribe. It is, however, stated on behalf of the respondent-Corporation that, if the respondent-Corporation is directed to reinstate the petitioner, the petitioner should not be granted the salary and the other monetary benefits for the period during which he was out of service.

Since the petitioner is appointed before the cut-off date on 21/03/1996 and since there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for the Mahadeo Koli Scheduled Tribe, it would be necessary to protect the services of the petitioner in view of the judgment, reported in 2015 (1) Mh.L.J. 457.

Hence, for the reasons aforesaid, the writ petition is partly allowed, the respondent-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 that neither the petitioner nor his progeny would claim the benefits meant for the Mahadeo Koli Scheduled Tribe in future. The respondent-Corporation is directed to reinstate the petitioner in service within a period of two weeks from the date of receipt of the undertaking. Though the petitioner would be entitled to continuity in service, the petitioner would not be entitled to the monetary benefits, including salary from the date of his termination till the date of his reinstatement.

Order accordingly. No costs.

JUDGE

JUDGE