

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

WRIT PETITION No. 4110/2013.

Ku. Harsha Krushnarao Tayade

-VERSUS-

State of Maharashtra and others.

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

Court's or Judge's Orders

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

DATE : APRIL 22, 2015.

Heard Shri G.G. Mishra, learned Counsel
for the petitioner, learned A.G.P. for respondent no.1,
Mrs. B.H. Dangre, learned Counsel for respondent no.2
and Shri J.B. Kasat, learned Counsel for respondent
no.3.

2. Shri Mishra, learned Counsel submits that
claim of petitioner as belonging to "Dhoba" Scheduled
Tribe has been invalidated on 28.04.2003 and that
invalidation was upheld by this Court on 22.07.2004.
However, then liberty was given to the petitioner to
make representation and claim protection in
employment. Accordingly, that representation has

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been made and it has not been decided so far. He relies upon Full Bench judgment of this Court reported at **2015 (1) Mh.L.J. 457 (Arun Sonone .vrs. State of Maharashtra and others)**, to urge that as the petitioner has joined employment on 28.12.1999, her services are entitled to be protected.

3. Learned A.G.P. appearing on behalf of respondent no.1 as also learned counsel appearing for respondent no.3 oppose the petition.

4. Shri Kasat, learned Counsel points out that petitioner joined employment in pursuance of appointment order dated 20.12.1999, and according to him at that juncture petitioner had two caste certificates. One is, certificate bearing No. 5678 dated 03.02.1993, which has been invalidated by order dated 28.04.2003 by the Scrutiny Committee. The other certificate is dated 15.11.1999 or 14.11.1999. He is relying upon photocopy of the said certificate placed at page no.35 by the petitioner as part of Annexure-H.

5. Shri Kasat, learned counsel submits that thus, when petitioner joined employment after 20.12.1999, she had one certificate which described her as Scheduled Tribe candidate and the other which

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described her as O.B.C. In this situation, according to him, petitioner ought to have submitted either both the certificates or then could not have used either.

6. After hearing the respective counsel, we find that the Scrutiny Committee has invalidated the caste claim on 28.04.2003 i.e. after about 3 ½ years of the certificate obtained by the petitioner as belonging to O.B.C. Petitioner could have pointed out even later certificate to the Scrutiny Committee and shown her bonafides.

7. However, according to the learned counsel for the petitioner, petitioner was not given any opportunity in this respect and learned Counsel for petitioner also raises doubt about the date of caste certificate at page no.35.

8. The petitioner has put in about 16 years of service, and as such considering the facts which have come on record, we direct her employer i.e. respondent no.3 to serve appropriate show cause notice and give her an opportunity to explain the same. Such show cause notice be served within a period of 6 weeks from today. The petitioner shall submit her reply thereto within next 6 weeks.

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Respondent no.3 shall thereafter pass suitable order within next 8 weeks.

9. With these directions, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE

Rgd.