

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

WRIT PETITION NO.4106 OF 2014

[Kailas s/o Viswas Koltake .vs. Divisional Controller, State Road Transport Corporation, Kolhapur and one]

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

Court's or Judge's orders

 Shri M.V. Bute, counsel for the petitioner,
 Shri V.G. Wankhede, counsel for the respondent no.1,
 Shri K.P. Sadavarte, counsel for the respondent no.2.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : APRIL 16, 2015.

By this petition, the petitioner seeks the protection of his services on the post of Helper in the office of the Divisional Controller, Kolhapur, on the basis of the judgment of the full bench reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath .vs. State of Maharashtra and others].

The petitioner was appointed on the post of Helper in the office of the Divisional Controller, Kolhapur. The post, on which the petitioner was appointed, was earmarked for the Scheduled Tribes. The petitioner claimed to belong to 'Mahadeo Koli Scheduled Tribe' and had tendered a caste certificate in that regard. The caste certificate of the petitioner was sent by the respondent no.1-Corporation to the scrutiny committee for verification. By an order dated 24.12.1999, the scrutiny committee invalidated the caste certificate of the petitioner, after holding that the petitioner did not belong to 'Mahadeo Koli Scheduled Tribe', but is 'Koli' by caste. The order of the scrutiny committee was challenged by the petitioner in a writ petition, but the writ petition was dismissed and the order of the scrutiny committee was upheld. On the basis of the judgments rendered by the Hon'ble Supreme Court subsequently and in view of the law laid down by this

court in the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath .vs. State of Maharashtra and others], the petitioner has sought the protection of his services, as his services were terminated by the respondent no.1-Corporation on 21.1.2000, after the invalidation of his caste claim.

The learned counsel for the petitioner submitted, by placing reliance on the judgment of the full bench of this court, that the services of the petitioner are required to be protected as the appointment of the petitioner was made before the cut off date, in the year 1995. It is stated that there is no observation in the judgment of the scrutiny committee that the petitioner had fabricated the documents and/or had made a false claim on the basis of incorrect documents that he belongs to 'Mahadeo Koli Scheduled Tribe'. It is stated that the services of the petitioner are required to be protected in view of the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath .vs. State of Maharashtra and others].

Shri Sadavarte, the learned counsel for the respondent no.2-Scrutiny Committee, submitted that the order of the scrutiny committee has been upheld by this court and it is observed by the scrutiny committee in the order rejecting the caste claim that the petitioner had sought the benefits meant for the Scheduled Tribes, though the petitioner belongs to 'Koli' caste.

Shri Wankhede, the learned counsel for the respondent no.1-Corporation, also submitted that the petitioner would not be entitled to any relief as the services of the petitioner were terminated in January, 2000 and the challenge made by the petitioner to the order of the scrutiny committee had attained finality on the dismissal of the writ petition filed by the petitioner.

On hearing the learned counsel for the parties and on a perusal of the order of the scrutiny committee, it appears that the services of the petitioner are required to be protected. The petitioner claimed to belong to 'Mahadeo Koli Scheduled Tribe' but was unable to prove his caste claim. It was found by the scrutiny committee that the petitioner belongs to 'Koli' caste and not 'Mahadeo Koli' Scheduled Tribe. We do not find, on a reading of the order of the scrutiny

committee that the petitioner had fabricated the documents or had made a false claim on the basis of fraudulent documents. We find that the scrutiny committee had invalidated the claim of the petitioner on the basis of the documents and on his failure to prove affinity to 'Mahadeo Koli Scheduled Tribe'. Since the petitioner had not produced false or fabricated documents and had not changed any entries with a view to illegally secure the benefits available to the Scheduled Tribes, the petitioner would be entitled to the protection of his services, in view of the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath .vs. State of Maharashtra and others]. It would also be worthwhile to consider that similar writ petitions, bearing Writ Petition No.99/2013 and others, were allowed by this court by the judgment and order dated 17.2.2015. In similar set of facts, the relief cannot be denied to the petitioner when the petitioner was appointed before 28.11.2000.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The order of termination of the petitioner, dated 21.1.2000 is quashed and set aside. The services of the petitioner are protected on the petitioner's tendering an undertaking to the respondents and in this Court within a period of 15 days that neither the petitioner nor his progeny would claim the benefits meant for 'Mahadeo Koli' Scheduled Tribe in future. The respondent no.1-Corporation should reinstate the petitioner in service, within a period of 15 days, with continuity of service. Since the petitioner has not worked from the date of his termination and would not work till he is reinstated, the petitioner would not be entitled to wages or salary for the said period. Order accordingly. No costs.

JUDGE

JUDGE