

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

WRIT PETITION NO.3902 OF 2014

[Smt. Surekha Vinod Nimje .vs. Zilla Parishad, Buldhana and others]

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

Court's or Judge's orders

Ms. Surabhi Pathak, counsel h/f Shri A.A. Kamale, counsel for the petitioner,
Ms. M.P. Munshi, counsel for the respondent no.1.

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

DATED : APRIL 28, 2015.

By this petition, the petitioner seeks protection of her services, in view of the law laid down by the full bench in the judgment reported in 2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others), as the petitioner is appointed before the cut off date in the year 1997 and there is no observation in the order of the scrutiny committee that the petitioner had fraudulently or falsely secured the benefits meant for Halba, Scheduled Tribe.

The petitioner was appointed on the post of Primary Teacher in a school run by the Zilla Parishad on 15.3.1997 on a post reserved for the Scheduled Tribes. The caste certificate of the petitioner of Halba, Scheduled Tribe, was sent by the Zilla Parishad to the scrutiny committee for verification. By an order dated 24.6.2002, the scrutiny committee invalidated the caste claim of the petitioner. According to the scrutiny committee, the petitioner was not able to prove her claim to Halba, Scheduled Tribe. By the impugned order dated 15.7.2014, the petitioner was asked by the Zilla Parishad to produce the caste validity certificate or else her services would be terminated. The petitioner has challenged the notice in the instant petition and has sought the protection of her services in view of the several decisions rendered by the Hon'ble Supreme Court and this

Court.

Ms. Pathak, the learned counsel for the petitioner, submitted that the case of the petitioner stands fully covered by the judgment of the full bench, reported in 2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others). It is stated that the petitioner was appointed on 15.3.1997 on a post reserved for the Scheduled Tribes. It is stated that since the petitioner was appointed before the cut off date and since there is no observation in the order of the scrutiny committee that the petitioner had fraudulently or falsely secured the benefits meant for the Scheduled Tribes by fabricating or interpolating the documents, the services of the petitioner are required to be protected.

On hearing the learned counsel for the parties and on a perusal of the order of appointment of the petitioner dated 15.3.1997, as also the order of the scrutiny committee dated 24.6.2002, it appears that the services of the petitioner are required to be protected. The petitioner was appointed before the cut off date and there is no observation in the order of the scrutiny committee that the petitioner had falsely claimed the benefits meant for the scheduled tribes. Though the petitioner was not able to prove the caste claim, in view of the law laid down by the full bench in the judgment reported in 2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others), the services of the petitioner are required to be protected.

Hence, for the reasons aforesaid, the writ petition is allowed. The services of the petitioner are protected on the petitioner furnishing an undertaking to the Zilla Parishad and this court, within a period of 15 days that neither the petitioner nor her progeny would claim any benefits meant for the Halba, Scheduled Tribe, in future. Order accordingly. No costs.

JUDGE

JUDGE