

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

Writ Petition No. 3977 of 2014

Kundlik s/o Manikrao Tarole vs. Scheduled Tribe Certificate Scrutiny Committee
Division, Amravati and another.

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

Court's or Judge's
Orders.

Shri M.V.Bute, Advocate for the petitioner.

Shri Sadavarte, Advocate for the respondent
no.1.

Ms M.P.Munshi, Adv. for the respondent no.2.

**CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ**

DATE : 22.4.2015

By this petition, the petitioner seeks protection of his services in view of 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).

The petitioner was appointed on 30.6.1995 as an assistant teacher in a School administered by the Zilla Parishad. The petitioner was appointed on the post reserved for the Scheduled Tribe as the petitioner claimed to belong to "Mahadeo Koli" Scheduled Tribe. The caste claim of the petitioner was invalidated by the Caste Scrutiny Committee in the year 1998. When the Zilla Parishad became aware about the invalidation of the caste claim of the petitioner, it issued a show cause notice to the petitioner as to why his services should not be terminated. Since, the petitioner apprehended the termination of his services, the instant petition was

filed challenging the show cause notice. The petitioner has sought the protection to his services in view of the Judgment in the case of Dattu Namdev Thakur vs. State of Maharashtra, reported in (2012) 1 Supreme Court Cases, 549 and 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 on behalf of the petitioner that the respondent no.2 is liable to protect the services of the petitioner as the petitioner was appointed in the year 1995 i.e. before the cut off date and the Scrutiny Committee has not found that the petitioner has fabricated documents and has claimed certain concessions meant for the Scheduled Tribes on the basis of manipulated documents. It is stated that merely because in the documents pertaining to the father of the petitioner, caste "Koli" was recorded in the caste column, it cannot be said that the petitioner had made a false claim of belonging to "Mahadeo Koli" Scheduled Tribe. It is stated that the observation in regard to the manipulation and fabrication in the order of the Scrutiny Committee, is wrong as the petitioner had never tried to change any entry in the documents pertaining to the petitioner or his relatives

Shri Sadavarte, the learned counsel for the Scrutiny Committee submitted that though there is a observation in regard to the manipulation and fabrication of the documents by the petitioner, there is actually no material in respect of manipulation or fabrication and while using those terms the Scrutiny Committee has only considered the entry "Koli" in the School Record of the petitioner's father. It is fairly admitted that there is nothing in the order to show that the petitioner had tried to create some

documents with a view to seek the benefits meant for “Koli Mahadeo” Scheduled Tribe.

Ms. Munshi, the learned counsel for the respondent no. 2 submitted that the petitioner is still working with the respondent no.2 Zilla Parishad despite the invalidation of his caste claim. The learned counsel had nothing to say about the protection of services of the petitioner as this issue stands answered in favour of the petitioner in view of the Judgment of the Full Bench reported in 2015(1) Mh. L.J., 457.

On hearing the learned counsel for the parties, it appears that the services of the petitioner as an assistant teacher are required to be protected. The petitioner is appointed before the cut off date in the year 1995. Though the caste claim of the petitioner is invalidated, there is nothing in the order of the Scrutiny Committee to show that the petitioner had fabricated any documents or had interpolated some entries in the School Record of the petitioner or his father. The mere reference to the word “Koli” in the School Record of the father of the petitioner would not show that the petitioner had falsely tried to claim the benefits meant for “Mahadeo Koli Scheduled Tribe. The issue involved in this case is squarely answered in favour of the petitioner in view of the judgment of the Full Bench reported in 2015(1) Mh. L.J., 457.

Hence, for the reasons aforesaid, the writ petition is allowed. The services of the petitioner are protected only on the petitioner furnishing an undertaking in this court and before the respondent Zilla Parishad 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. It is needless to state that the petitioner would not be entitled to any promotional benefits on the basis of the tribe claim. Order accordingly. No order as to costs.

JUDGE

JUDGE

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