

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

WRIT PETITION NO. 4557 OF 2013

(Pradeep s/o Ramrao Bhiwate vs. Scheduled Tribe Caste Certificate Scrutiny Committee thr. its
Member-Secretary, Amravati & Anr.)

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.
APRIL 29, 2015.**

Heard Shri Khati, learned counsel for the petitioner, Shri Sadavarte, learned counsel for respondent No. 1 and Mrs. Bodade with Shri Raulkar, learned counsel for respondent No. 2.

2. Shri Khati, learned counsel submits that the petitioner had a certificate issued on 25.07.1991 which reveals that he belongs to *Dhangar*, Nomadic Tribe. He got employment on the strength of that certificate and it is also validated by the competent Scrutiny Committee on 28.12.2011. The employer on one occasion i.e. on 03.01.2012 demanded validity as Nomadic Tribe – C and thereafter on 19.06.2013 demanded validity as Scheduled Tribe. In the School records and seniority list, caste of the petitioner has been recorded as *Dhanwar* and he has been categorized as NT-C. According to him, the petitioner never got employment as ST candidate, therefore, there was no occasion for the employer to demand validity as ST.

3. The learned counsel for respondent No. 2 –

employer is relying upon reply affidavit. He states that as per the list forwarded on 27.06.1995 by the office of the Collector, Akola, the petitioner is shown to have been selected as ST candidate and as such the petitioner must furnish that validity.

4. Shri Sadavarte, learned counsel for respondent No. 1 adopts the arguments of the counsel for the employer.

5. During hearing, we find that except for communication dated 27.06.1995, sent by the office of the Collector to Respondent No. 2, Respondent No. 2 does not have any other document to show that the petitioner has been selected and appointed from ST category. The above mentioned communication to which our attention has been drawn by the petitioner shows that the employer has on 03.01.2012 demanded validity as NT-C candidate and thereafter on 19.06.2013 as ST candidate. It is not in dispute that in School records, the petitioner is recorded as a candidate belonging to NT-C category, though his caste appears to be as *Dhanwar*. Caste certificate dated 25.07.1991 is produced before this Court by the learned counsel for the petitioner. This caste certificate is verified by the Scrutiny Committee and found valid on 28.12.2011. There, caste is recorded as Dhangar and categorized as NT-C.

6. In this situation, there is nothing on record to show that the petitioner has not been selected and appointed as a candidate belonging to NT-C category. The employer is not in a position to demonstrate that

the petitioner is appointed from ST category.

7. In this situation, in the light of the Full Bench judgment of this Court in the case of Arun Vishwanath Sonone vs. State of Maharashtra & Ors., 2015 (1) Mh. L.J. 457 (FB) and other judgments looked into therein, we find the petitioner entitled to grant of protection in the employment. Hence, in terms of the said judgment and subject to the petitioner filing an undertaking with the Registry of this Court and with his employer within six weeks from today that neither he nor his progeny shall claim the status as Scheduled Tribe candidate, we declare that his employment shall not be disturbed.

8. Writ Petition is thus partly allowed and disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

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