

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

WRIT PETITION NO.5020 OF 2015

[Vishal s/o Shankar Dadmal .vs. Regional Appointment Committee and Chief Conservator of Forest
(Regional), Gadchiroli and others]

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

Court's or Judge's orders

Shri P.P. Dhok, counsel for the petitioner,
Mrs. B.H. Dangre, Government Pleader for the respondent nos.1 and 2,
Shri N.R. Rode, AGP for the respondent no.3.

.....

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : SEPTEMBER 07, 2015.

By this petition, the petitioner seeks a direction to the respondent no.1 to appoint the petitioner on the post of Forest Guard as per selection letter dated 30.5.2015. The petitioner also seeks a direction to the scrutiny committee to decide the caste claim of the petitioner within a stipulated period.

According to the petitioner, the petitioner is selected for appointment on the post of Forest Guard reserved for the scheduled castes. It is stated that the caste claim of the petitioner was referred by the respondent no.1 to the scrutiny committee for verification. According to the petitioner, it was necessary for the scrutiny committee to have decided the tribe claim of the petitioner within a short time, but the scrutiny committee has not decided the tribe claim of the petitioner till date and in the absence of the validity certificate, the respondent no.1 has not issued the appointment order in favour of the petitioner. It is stated that in view of ***Direction No.10 in the case of Kum. Madhuri Patil and another v. Additional Commissioner, Tribal Development, reported in AIR 1995 SC 94***, a direction be issued to the respondent no.1 to appoint the petitioner on the post of Forest Guard during the pendency of the matter before the scrutiny

committee.

Mrs. Dangre, the learned Government Pleader appearing on behalf of the respondent no.1 states that the advertisement calling applications for appointment on the post of Forest Guard was issued in pursuance of a special drive for removal of backlog in the posts of Forest Guards. It is stated that 19 candidates were selected for appointment on the post of Forest Guards including the petitioner and except the petitioner, the other 18 candidates have submitted the caste validity certificate. It is stated that there is no bar in applying to the scrutiny committee for issuance of a caste certificate even while securing the school-education. It is stated that the candidates desirous of securing education or employment on the basis of reservation are entitled to apply to the scrutiny committee well in advance. It is stated that all other selected candidates had applied to the scrutiny committee well in advance and they have tendered their caste validity certificates to the respondent no.1. It is stated that since the appointments are being made in view of the special drive for removal of backlog, the petitioner cannot be appointed at this stage, in the absence of the caste validity certificate. It is stated that a direction be issued to the scrutiny committee to decide the caste claim of the petitioner and if the caste claim of the petitioner is validated, the claim of the petitioner for appointment could be considered.

On hearing the learned counsel for the parties, it appears that a direction is required to be issued to the scrutiny committee to decide the caste claim of the petitioner within a time frame. However, a direction cannot be issued to the respondent no.1 to appoint the petitioner on the post of Forest Guard during the pendency of the caste claim. It is well settled that a selected candidate does not have a right to be appointed on the post for which he is selected. The petitioner admittedly does not possess the caste validity certificate. It is submitted on behalf of the respondent no.1 that out of the 19 candidates that are sought to be appointed in pursuance of the advertisement, 18 have submitted their caste validity certificate and only the petitioner does not possess the same. The petitioner cannot be permitted to hold the post of Forest Guard in the absence of the caste

validity certificate. It is rightly submitted on behalf of the respondent no.1 that the petitioner could have applied to the scrutiny committee for issuance of the caste validity certificate while the petitioner was taking education. The judgment reported in **2011 (6) Mh.L.J. 414 (Dayaram .vs. Sudhir Batham and others)** and relied on by the counsel for the petitioner cannot be made applicable to the facts of this case.

Hence, in the circumstances of the case, we direct the scrutiny committee to decide the caste claim of the petitioner, as early as possible and positively within a period of four months from the date of appearance of the petitioner before the scrutiny committee. The petitioner undertakes to appear before the scrutiny committee on **21.9.2015**, so that issuance of notice to the petitioner could be dispensed with. The learned Government Pleader fairly states that one post of Forest Guard would be kept vacant till the tribe claim of the petitioner is decided and the respondent no.1 may consider appointing the petitioner on the post of Forest Guard in case his tribe claim is validated. Order accordingly. No costs.

JUDGE

JUDGE