

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

WRIT PETITION NO.5205 OF 2014

Vinod S/o Wasudeo Shewatkar

-vs-

Chief Engineer (Tech.), Maharashtra State Electricity Generation Co.Ltd.and another

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

Court's or Judge's Orders.

Mr.S.V.Sohoni, counsel for the petitioner.
Mr.A.D.Mohgaonkar, counsel for the respondents.

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

DATE : 23.03.2015.

Heard.

By this petition, the petitioner challenges the order
of termination of his services dated 05/09/2014.

The petitioner had secured employment with the
respondent-Corporation in the year 1992 on a seat reserved
for the nomadic tribes on the ground that the petitioner
belongs to Tirmal Caste. When the respondent-Corporation
sought the necessary documents in the format for referring the
caste claim of the petitioner to the Scrutiny Committee for
verification, the petitioner clearly informed the Corporation
that the petitioner does not belong to Tirmal Caste and
belongs to Teli Caste, which falls in the other backward
classes. The respondent-Corporation refused to send the claim
of the petitioner of belonging to Teli Caste to the Scrutiny
Committee for verification as the petitioner was appointed on
the post reserved for the nomadic tribes. The corporation then
asked the petitioner to submit the documents for verification
of his caste claim of Tirmal Caste from the Scrutiny Committee
in the necessary form but according to the Corporation, the
petitioner did not submit the same. After issuance of a show

cause notice, the petitioner's services were terminated by the impugned order dated 05/09/2014.

It is submitted on behalf of the petitioner that the Corporation was not justified in terminating the services of the petitioner without referring the caste claim of the petitioner to the Scrutiny Committee for verification. It is stated by placing reliance on the judgment reported in 2011 (1) ALL MR 145. (Dr.Sadique Hussain Sheikh Azim Qureshi v. Divisional Caste Certificate Scrutiny Committee, Nagpur) that it is the bounden duty of the employer to send the caste claim of the employee to the Scrutiny Committee for verification, howsoever, justified the employer may be in entertaining a doubt about the genuineness of the caste claim.

Shri Mohgaonkar, the learned counsel for the Corporation, submitted that the petitioner has played fraud on the Corporation while seeking appointment on the post reserved for nomadic tribes. It is stated that the petitioner had, by its communication dated 25/11/2013, informed the Corporation that the petitioner does not belong to Tirmal Caste and belongs to Teli Caste which falls in the other backward classes. It is stated that the petitioner also did not submit the necessary documents on the notice issued by the respondent-Corporation for verification of the claim of the petitioner, in the requisite form.

On hearing the learned counsel for the parties and on a perusal of the judgment reported in 2011 (1) ALL MR 145 (Dr.Sadique Hussain Sheikh Azim Qureshi v. Divisional Caste Certificate Scrutiny Committee, Nagpur), it appears that it was necessary for the Corporation to refer the claim of the petitioner of belonging to Tirmal Caste though it *prima facie* appears from the documents tendered by the petitioner to the Corporation along with the application that the petitioner belongs to Teli Caste which falls in the other backward classes. Though the respondent Corporation had a

serious doubt about the tribe claim of the petitioner, the Corporation was obliged to send the caste claim of the petitioner for verification. It was also necessary for the petitioner to submit the documents in the necessary form so that the same could have been sent to the Scrutiny Committee for verification of the caste claim. At this stage, the learned counsel for the petitioner states that the petitioner would submit the necessary documents to the Corporation in the requisite form within three weeks. If the petitioner submits the said documents, it would be necessary for the Corporation to submit the claim of the petitioner to the Scrutiny Committee for verification.

Hence, for the reasons aforesaid, the writ petition is partly allowed. At this stage, we are not inclined to quash and set aside the order of termination, in view of the applications made by the petitioner to the Corporation from time to time claiming to belong to Teli Caste. In the circumstances of the case, the issue in regard to the reinstatement or protection would crop up only after the Scrutiny Committee decides the caste claim of the petitioner. The issue in regard to the termination or protection of services of the petitioner is kept open. If the petitioner submits the necessary documents to the respondent-Corporation within a period of 3-4 weeks, the respondent-Corporation should submit the same to the Scrutiny Committee for verification of the caste claim of the petitioner within a period of four weeks from the receipt of the same.

Order accordingly. No order as to costs.

JUDGE

JUDGE