

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

WRIT PETITION NO.5396 OF 2013

**Mahadeo Rambhau Wagh vs. Joint Director, Health Services
(Malaria and Elephantiasis) Pune and anr**

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

Shri Anil S. Mardikar, counsel for the Petitioner.
Shri T.R. Kankale, AGP for R-1 & 2.

<u>CORAM</u>	: B.P.DHARMADHIKARI & A.P.BHANGALE, JJ.
<u>DATE</u>	: JANUARY 15, 2015.

Heard.

The petitioner was born in the year 1966, got the Caste Certificate showing that he belongs to “Mahadeo Koli” (Scheduled Tribe). On the strength of that Certificate, he got initial appointment as a Bonded candidate on 22.12.1994. He worked as multipurpose worker in Malaria office under respondent No.2 – District Malaria Health Officer at Ratnagiri. He was appointed permanently on 3.9.1997 in same category.

On 19.8.2013, he has been called upon to produce his Caste Validity Certificate as

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belonging to “*Scheduled Tribe*” candidate and that communication is annexed to the present writ petition.

Learned counsel for the petitioner submits that in 2010 Seniority List, the petitioner was shown as “*Scheduled Tribe*” candidate. However, in the year 2012, the seniority list was revised and the petitioner was shown as “*Special Backward Class*” candidate in terms of Government Resolution dated 15.6.1995.

The petitioner, thereafter, has obtained a Caste Validity Certificate on 24.3.2011 from the competent Authority which certified him to be a person belonging to caste “Koli” (Special Backward Class).

Learned counsel for the petitioner has placed reliance on the Full Bench Judgment of this Court in the case of **Arun s/o Vishwanath Sonone ..vs.. State of Maharashtra & ors,** reported at **2015(1) Mh.L.J. 457** to urge that in this situation the show cause notice cannot be acted upon and the services of the petitioner should be protected.

Learned Assistant Government Pleader is opposing any intervention. He submits that the caste claim of the petitioner as belonging to "*Scheduled Tribe*" has not been verified and hence the protection cannot be given.

In this situation, we find that the appointment of the petitioner is prior to coming into force of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, 2000 (Act No.23 of 2001) and Government Resolution dated 15.6.1995 treats the candidates like the petitioner as a person belonging to "*Special Backward Class*". The petitioner has been given Caste Validity Certificate on 24.3.2011 as a person belonging to "*Special Backward Class*". The Department itself has accepted it while preparing the seniority list in the year 2012.

In this situation, the show cause notice is set aside.

The petitioner shall be treated as a candidate belonging to "*Special Backward Class*". He shall, within a period of six weeks from today, file an undertaking that he or his progeny shall not claim any benefits of or status as belonging to "*Scheduled Tribe*" as per the directions of the Full Bench Judgment cited *supra*.

The petition is, thus, partly allowed and disposed of with no order as to costs.

JUDGE

JUDGE

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