

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6806 OF 2014

Sachin Vasant Shirirao

-VS-

The Joint Commissioner, Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur & ors.

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

Court's or Judge's Orders.

Mr.B.B.Meshram, counsel for the petitioner.
Mr.K.P. Sadavarte, counsel for the respondent No.1
Mr. A. Shelat, counsel for the respondent Nos2 and 3.

CORAM : SMT.VASANTI A. NAIK &
PRASANNA B. VARALE, JJ.

DATE : 17.06.2015.

By this petition, the petitioner has sought a direction against the respondent No.1-Scrutiny Committee to decide the caste claim of the petitioner within a time frame. The petitioner has also challenged the impugned order dated 20/07/2014 issued by the respondent-Management thereby terminating the services of the petitioner.

The petitioner was appointed as an untrained primary teacher in the respondent-Ashram School on 05/07/2005, on a post reserved for the Scheduled Tribe category. The proposal of the petitioner was forwarded by the respondent-Management to the Scrutiny Committee for verification. It is the case of the petitioner that before the Scrutiny Committee verified the caste claim of the petitioner, the respondent-Management terminated the services of the petitioner on two grounds. It is stated that the services of the petitioner were terminated on the ground that the petitioner was continuously remaining absent in the Ashram School and the petitioner had not produced the caste validity certificate.

It is stated that the termination is liable to be set aside as it was necessary for the management to have initiated an enquiry against the petitioner if the management wanted to terminate the services of the petitioner on the ground of his unauthorized absence. It is stated that the State Government has extended the period for acquiring the training qualification and the respondent-Management could not have terminated the services of the petitioner on the said ground. It is lastly stated that the petitioner is not at fault in not producing the caste validity certificate as the Scrutiny Committee has failed to decide the caste claim of the petitioner for long.

Shri Shelat, the learned Counsel for the respondent-Management, submitted that the services of the petitioner were terminated, as he was remaining absent from the school, he had not produced the caste validity certificate and had also not acquired the training qualification. It is further stated that if this Court is inclined to hold that the termination on the ground of unauthorized absence could not have been effected without holding an enquiry, the respondent-Management is ready to reinstate the petitioner and he can join his school from the date of its reopening and the management would take appropriate steps against the petitioner, for his unauthorized absence or any other misconduct.

On hearing the learned Counsel for the parties and on a perusal of the impugned order, it appears that the impugned order is liable to be set aside. The proposal of the petitioner for verification of his tribe claim was pending before the Scrutiny Committee since the year 2010-11. The petitioner is not at fault in not producing the caste validity certificate, as his proposal is not decided by the Scrutiny Committee. We do not find that the respondent-Management

was justified in terminating the services of the petitioner by the impugned order. The petitioner was appointed on a post earmarked for the scheduled tribes and the claim of the petitioner is yet not decided by the respondent-Scrutiny Committee. The termination of the services of the petitioner for not producing the caste validity certificate cannot be upheld. Also, if the respondent-Management was of the view that the petitioner was absenting himself from duty unauthorizedly, the respondent-Management was entitled to conduct an enquiry against the petitioner, as the petitioner was appointed in the year 2005. It is rightly stated on behalf of the respondent-Management that the petitioner could join his services on the day of reopening of the school and the respondent-Management may take appropriate steps against the petitioner for his unauthorized absence or any other misconduct or misdemeanor, in accordance with law, if necessary.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order of termination is quashed and set aside. The respondent-Scrutiny Committee is hereby directed to decide the tribe claim of the petitioner as early as possible and positively within a period of nine months from the date of appearance of the petitioner before the respondent-Scrutiny Committee. The petitioner undertakes to appear before the respondent-Scrutiny Committee at Nagpur on 01/07/2015 so that issuance of notice to the petitioner could be dispensed with.

Order accordingly. No costs.

JUDGE

JUDGE