

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

WRIT PETITION NO. 6774 OF 2013

(Ku. Kamal Pandhari Likhar & Ors. vs. The State of Maharashtra thr. Principal Secretary, General
Administrative Department & Ors.)

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 &
A.P. BHANGALE, JJ.
JANUARY 13, 2015.**

Heard Shri Narnaware, learned counsel for the petitioners, Shri Rode, learned AGP for respondent Nos.1 & 3, Shri Abhijeet Deshpande, learned counsel for respondent Nos. 2 and Shri Johrapurkar, learned counsel for respondent No. 4.

The three petitioners before this Court point out that they have joined the employment of Respondent No. 4 before 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, (Act No. 23 of 2001), as Halba – Scheduled Tribe candidates and their appointments were also approved. Their caste claims were forwarded for the first time on 03.09.2013 to the Scrutiny Committee.

Shri Narnaware, learned counsel, in this

background submits that as the appointments have become final prior to coming into force the Act No. 23 of 2001, the petitioners are entitled to protection of service. In the alternative and without prejudice, he also relies upon the Resolution passed by the management dated 30.09.2013, by which the management has treated the petitioners as open category candidates.

Shri Deshpande, learned counsel as also learned AGP submit that the entitlement of the petitioners to protection cannot be gone into until and unless the caste claim is verified by Respondent No. 2. Shri Deshpande, learned counsel, submits that in case of petitioner No. 2 – Bhagwan R. Ninave and petitioner No. 3 – Vijaychandra R. Patil, Vigilance Cell report is already forwarded to those petitioners. Insofar as petitioner No. 1 – Kum. Kamal P. Likhar is concerned, the matter is with the Vigilance Cell authorities. Upon instructions, he states that if the petitioners cooperate, verification can be completed in six months. Both the learned counsel also add that claim as Open category candidates also need to be decided depending upon the outcome of said verification.

We find that petitioner No. 1 has entered service on 01.07.1988, petitioner No. 2 has joined on 28.06.1990 and last petitioner has joined on 28.02.1996. The first petitioner joined as Assistant Teacher, is now working as Head Mistress, while other two petitioners are Junior Clerks. Thus reference to Scrutiny Committee

has been made after 25 years in case of petitioner No.1, after 23 years in case of petitioner No.2 and 17 years in case of petitioner No. 3.

In this situation, we direct Respondent No. 2 to complete verification in accordance with law within a period of seven months from the date on which the respective petitioners appear before it. The petitioners to appear before Respondent No. 2 – Committee on 16.02.2015 and to abide by its further instructions in the matter. The Committee shall attempt to complete verification following Act No. 23 of 2001 at the earliest and in any case within a period of seven months.

With these directions and keeping all contentions about the petitioners having been treated as open category candidates or its impact open, we dispose of the present writ petition. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

**G.S.*