

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

WRIT PETITION NO.5589 OF 2013

(Rajeshwar s/o. Sudhakar Dhakate .vs. State and Ors.)

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

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 12th JANUARY, 2015.

Heard Mr.Firdos Mirza, learned Counsel for the petitioner and Mr.T.R.Kankale, learned A.G.P. for respondent nos. 1 to 5 for some time.

Mr.Firdos Mirza, learned Counsel for the petitioner fairly points out that the caste claim of the petitioner was invalidated on 22.3.2010. A Writ Petition bearing Writ Petition No.1609 of 2010 was then filed before this Court and this Court did not intervene on 7.12.2011. Though there was no prayer in the Writ Petition for protection of services of the petitioner, such argument was advanced and protection of employment was sought. This Court, by placing reliance upon the Full Bench Judgment reported at AIR 2009 Bombay 122, Ganesh Rambhau Khalale vs. State of Maharashtra, found that such protection was granted under Article 142 of the Constitution of India and hence, the said request could not have considered.

This order of the High Court dt. 7.12.2011 was questioned in Special Leave Petition No.2641 of 2012 and the Hon'ble Apex Court on 3.2.2012 dismissed it.

Learned Counsel for the petitioner argues that the petitioner born in the year 1970 or 1971 got the Caste Certificate showing that he belongs to 'Halba' Scheduled Tribe on 7.12.1989 i.e. hardly after completing 18 years of age and then he entered service on 2.1.1998 consequent to his selection on 20.12.1997. He submits that, in the similar situation when this Court has found that the person has not played any fraud and has not secured any false Certificate, benefit of prevailing confusion has been given and the service of such person has been protected. The learned Counsel also states that, during pendency of the present petition and very recently, a termination order has been issued to the petitioner.

The learned A.G.P. submits that, when this Court, on 7.12.2011, refused to grant protection and against that order, the Hon'ble Apex Court was approached, the Hon'ble Apex Court could have given protection under Article 142 of the Constitution of India to the petitioner. As that has not been done, this Court cannot, in this round of litigation consider such request.

Our attention is invited to paragraph no.11 of the orders passed by the Caste Scrutiny Committee to point out how benefits secured on the basis of false caste certificate by the petitioner are directed to be withdrawn. Learned A.G.P., therefore, seeks dismissal of the Writ Petition.

Mr.Firdos Mirza, learned Counsel for the petitioner seeks time of one week to further assist the Court.

As we find that this Court has already refused to

consider the request for protection and thereafter, the Hon'ble Apex Court was approached, we are not in a position to consider that request in fresh round of litigation i.e. in the Writ Petition filed subsequently. In this situation, the Writ Petition is rejected. No costs.

JUDGE

JUDGE

jaiswal