

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

WRIT PETITION No.6020 OF 2013

Rajendrakumar s/o. Vijaysingh Gautam .vs. State and anr.

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 : 7th JANUARY, 2015.

Heard Mr.P.S.Khubalkar, learned Counsel for the petitioner, Mr.T.R.Kankale, learned A.G.P. for respondent no.1 and Mr.D.M.Kale, learned Counsel for respondent no.2.

Mr.P.S.Khubalkar, learned Counsel for the petitioner submits that, in the year 1997 when the petitioner was appointed as a peon in the Municipal High School, he was selected and appointed against open category post and not against a reserved post. As such, according to the learned Counsel, it is not necessary for the petitioner to submit any Caste Validity Certificate. In the light of this, the notice sent by the Municipal Council on 14.10.2013 calling upon the petitioner to produce the Caste Validity Certificate and threatening otherwise with termination in terms of Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis),

Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Act No.23 of 2001) has been questioned.

Learned Counsel for the petitioner today invites our attention to a Certificate issued by the Education Officer (Secondary), Zilla Parishad, Buldhana to show that the school of Municipal Council, Khamgaon is the only school with Municipal Council with four posts of peon and the post reserved for Scheduled Tribe is still shown as lying vacant. According to him, therefore, this Certificate reveals that the petitioner was not appointed against the post reserved for Scheduled Tribe. He, therefore, submits that, as such, it was never necessary nor it is now necessary for the petitioner to submit the Caste Validity Certificate.

Mr.D.M.Kale, learned Counsel for respondent no.2 submits that the petitioner, who claims to be belonging to 'Thakur' Scheduled Tribe, has been appointed as a Scheduled Tribe candidate against the reserved post. He is relying upon reply-affidavit filed on record for the said purpose.

Mr.T.R.Kankale, learned A.G.P. for respondent no.1 adopts the arguments of Mr.D.M.Kale, learned Counsel for respondent no.2.

During the course of arguments and only to show his bona fides, Mr.P.S.Khubalkar, learned Counsel for the petitioner, upon instructions, states that without

prejudice to his contentions recorded supra, the petitioner is ready and willing to submit his caste claim for verification.

We find that the petitioner has not produced before this Court any advertisement or interview call received by him while giving him appointment as a peon in 1997. The resolution passed by the Municipal Council, if any, is also not produced on record.

Mr.P.S.Khubalkar, learned Counsel for the petitioner submits that the petitioner was then registered with the Employment Exchange and he received intimation from the Office of Employment Exchange and accordingly, he was appointed. But, no such intimation or call from the Office of Employment Exchange is produced on record.

The petitioner is presently aged about 50 years. Considering the fact that he has been appointed way back in the year 1997 and bona fides shown by him by agreeing to submit the Caste claim for verification to the Caste Scrutiny Committee, we are inclined to give the petitioner one more opportunity.

We accordingly direct the petitioner to submit his Caste Certificate along with necessary documents in support thereof to his employer within a period of three weeks from today. The employer/respondent no.2 shall then forward the same to the concerned Caste Scrutiny Committee for its verification in accordance with the provisions of the

Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Act No.23 of 2001). The Caste Scrutiny Committee shall attempt to complete the verification within a further period of one year.

Subject to such verification by the Caste Scrutiny Committee, the interim protection given to the services of the petitioner by this Court on 1.11.2013 shall continue.

The question whether the petitioner is appointed against the post reserved for a reserved category or open category is kept open.

The petitioner to collect necessary data and file fresh petition before this Court or to approach competent Forum for getting declaration that he is not appointed against the reserved post in accordance with law.

With these directions and the said liberty to the petitioner, we dispose of the present petition. No costs.

JUDGE

JUDGE