

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

WRIT PETITION NO.316 OF 2014

[Samadhan s/o Dashrath Irale .vs. Chief Executive Officer and one]

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

Court's or Judge's orders

 Shri M.V. Bute, counsel for the petitioner,
 Shri S.M. Ukey, counsel for the respondent no.1,
 Shri K.P. Sadavarte, counsel for the respondent no.2.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : MAY 07, 2015.

By this petition, the petitioner seeks the protection of his services on the post of Primary Teacher in the office of the respondent no.1-Zilla Parishad, Buldhana, in view of the law laid down by this court in the judgment of the full bench reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others].

The petitioner was appointed on the post of Primary Teacher in the office of the respondent no.1-Zilla Parishad, Buldhana on 30.6.1995. The appointment of the petitioner was made on a post reserved for the Scheduled Tribes category. The petitioner claimed to belong to 'Mahadeo Koli Scheduled Tribe' and the caste claim of the petitioner was sent to the Scrutiny Committee for verification. The Scrutiny Committee, by an order dated 10.02.2003, invalidated the caste certificate of the petitioner on the ground that the petitioner had failed to prove that the petitioner belongs to 'Mahadeo Koli' Scheduled Tribe. After the invalidation of the caste claim, the respondent no.1 terminated the services of the petitioner by an order dated 26.03.2007. In view of the various decisions rendered by the Hon'ble Supreme Court and this Court, the petitioner has sought the reinstatement in service and the protection of his services.

Shri Ukey, the learned counsel appearing on behalf of the respondent no.1, states that the services of the petitioner could be protected in view of the law laid down by the full bench of this court in the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others], but the petitioner should not be granted the arrears of the salary from the date of his termination till the date of his reinstatement.

It appears, on hearing the learned counsel for the parties and on a perusal of the order of the Scrutiny Committee and the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others], that it would be necessary to reinstate the petitioner in service and protect his services as a Primary Teacher. The petitioner was appointed on 30.6.1995 and hence, in view of the law laid down by the full bench of this court in the judgment reported in 2015 (1) Mh.L.J. 457 [Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others], the services of the petitioner are required to be protected, specially when there is no observation in the order of the Scrutiny Committee that the petitioner had falsely and fraudulently sought the benefits meant for the 'Mahadeo Koli Scheduled Tribe'.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondent no.1 is directed to reinstate the petitioner in service, within a period of three weeks, on the petitioner furnishing an undertaking to the respondent no.1 and also this court that neither the petitioner nor his progeny would claim the benefits meant for 'Mahadeo Koli' Scheduled Tribe in future. The petitioner would not be entitled to the arrears of salary from the date of his termination, till the date of his reinstatement, though he would be entitled to continuity in service. Order accordingly. No costs.

JUDGE

JUDGE