

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

WRIT PETITION No. 6401/2011.

Vasanta Bhikuji Nikhare

VERSUS

State of Maharashtra and others.

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.

DATED : JANUARY 14, 2015.

Heard Shri S.S. Sirsat, learned Counsel for the petitioner, Mrs. K.S. Joshi, learned A.G.P. for respondent nos. 1 to 3 and 5, Shri A. Deshpande, learned Counsel for respondent no.4 Committee, Shri N.S. Khandewale, learned Counsel for respondent no.6 and Shri S. Ahirkar, learned Counsel for respondent no.9.

As per orders of this Court dated

13.06.2014, only prayer for protection needs to be considered. Other prayers are consequently rendered infructuous, as such have been deleted. Hence, it is not necessary to hear respondent nos. 7 to 10.

After hearing respective Counsel, we find that the petitioner is born on 07.09.1965 and he got caste certificate as belonging to 'Halba Scheduled tribe' in 1989. On the strength of that certificate, he got employment with respondent no.6 on 07.10.1996. His caste certificate has been forwarded to the Scrutiny Committee for the first time almost after 15 years i.e. on 02.02.2011. The said caste claim has been invalidated on 29.11.2011, in view of the vigilance report which shows that most of the documents records caste as 'Koshti'.

Shri Sirsat, learned counsel has placed reliance upon Full Bench judgment of this Court in case of Arun Vishwanath Sonone .vrs. State of Maharashtra and others (2015 (1) Mh.L.J. 457) to submit that the controversy stands concluded in favour of the petitioner, as petitioner had joined prior

to 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).

The respective Counsel appearing for the employer and State Government are not disputing the Full Bench judgment (supra). Shri Deshpande, learned counsel however, invites attention to the fact that in case of real brother of petitioner, on 01.05.1965 caste was recorded as 'Koshti'. Accordingly there was no justification in changing it and recording caste as 'Halba Scheduled Tribe' in the present matter.

The documents produced by the petitioner show that right from his admission in the Primary School and throughout his education, his caste was recorded as 'Halba Scheduled Tribe'. Most of the documents are for the period when he was minor. In this situation, we find that the Committee has not and it is not possible to hold that the Scrutiny Committee

has found petitioner guilty of any fraud or of obtaining false certificate. He is, therefore, entitled for protection in terms of Full Bench judgment.

Accordingly, subject to petitioner filing an undertaking within a period of next six weeks, declaring that he or his progeny shall not claim and take advantage of status as Scheduled Tribe candidate and shall not claim any benefit of this order, the services of petitioner with respondent no.6 are protected in terms of Full Bench judgment (supra).

Subject to above, Writ Petition is partly allowed and disposed of. Pending Civil Applications also stand disposed of. No costs.

JUDGE

JUDGE

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