

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

WRIT PETITION NO.6648 OF 2013

**Shri Datatri S/o Maroti Nimje ..vs.. Joint Commissioner & Vice-
Chairman Scheduled Tribe Certificate Scrutiny Committee,
Gadchiroli and ors**

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

Court's or Judge's order

**Shri S.R. Narnaware, counsel for the Petitioner.
Mrs. Bharti Dangre, counsel for R-1.
Shri H.A. Deshpande, counsel for R-2 & 3.**

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.
DATE : JANUARY 13, 2015.**

1. Heard learned counsel appearing for both
the parties.

2. The employment of the petitioner is
already protected vide order of this Court dated
13.12.2013.

3. Shri S.R. Narnaware, learned counsel for
the petitioner, does not challenge the rejection
of the Caste claim of the petitioner. He,
however, submits that the petitioner is entitled

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to protection in terms of the Judgment of the Full Bench in the case of Arun s/o Vishwanath Sonone .vs.. State of Maharashtra & ors. reported at 2015(1) Mh.L.J. 457 viz. paragraph Nos.66(a) and 75(iv).

4. After hearing respective learned counsel for the parties, we find that the petitioner was born on 2.5.1972 and he had obtained his Caste Certificate, showing himself to be of Caste 'Halba' (Scheduled Tribe), on 14.9.1990. He joined employment as 'Laboratory Technician' on 13.4.1999 i.e. 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, 2000 (Act No.XXXIII of 2001). His Caste claim had been forwarded to the Caste Scrutiny

Committee for verification for the first time on 4.6.2007 and it had been invalidated on 12.6.2013.

5. Perusal of the order delivered by the Caste Scrutiny Committee shows that the old documents relating to the petitioner's relatives were showing their Caste as '*Koshti*' only. The petitioner, however, relied upon the documents of two cousins which revealed their Caste as '*Halba*'. These documents are dated 1.4.1945 or 1.7.1945.

6. The Caste Scrutiny Committee has considered these documents and found that the school records originally contained a declaration which revealed the Caste as '*Koshti*' only. However, there is no finding of any eraser or overwriting in any relevant school record. In any case, the petitioner was born in the year 1972 and got his Caste Certificate showing him

of 'Halba' (Scheduled Tribe) when he was hardly eighteen years of his age and there is nothing on record to show that he was privy to any such tampering or interpolation.

7. The Caste Scrutiny Committee has, in its order while considering Issue No.1, made some observations about the said Caste Certificate and school records. It has further found that, as old documents revealed the Caste as 'Koshti', the later documents obtained by the petitioner were fraudulent and on the basis of those documents, the petitioner got Certificate showing himself to be of caste 'Halba' (Scheduled Tribe).

8. These observations are not sufficient to hold that the petitioner himself was guilty of committing any fraud or practising falsehood.

9. In this situation, the petitioner is entitled to grant of protection in the employment in

terms of the Judgment of the Full Bench cited *supra*.

However, it is subject to petitioner's furnishing an undertaking, within a period of six weeks from today, that he or his progeny shall not claim any benefits of or status as belonging to Scheduled Tribe.

10. Subject to filing of such undertaking, the services of the petitioner are protected.

11. The petition is, thus, partly allowed and disposed of with no order as to costs.

JUDGE

JUDGE

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