

UNREPORTED
IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.254 OF 2016.

Vijaysing S/o Bharatsing Patil,
Age 23 years, Occ.Service,
R/o at post Javkhede (Kh.),
Tq.Erandol, Dist.Jalgaon. ... Petitioner.

Versus

1. The Divisional Caste
Certificate Scrutiny Committee
No.2, Dhule, Tq and Dist.
Dhule.

2. The Maharashtra State
Electricity Distribution
Co. Ltd., through its
Chief Engineer, Jalgaon
Division, Jalgaon.

3. The Maharashtra State
Electricity Distribution
Co. Ltd. Through its
Executive Engineer,
Old Power House, Near
Railway Gate, Dharangaon,
Dist.Jalgaon.

4. The Maharashtra State
Electricity Distribution
Co.Ltd., through
its Assistant Engineer/
Junior Engineer, Erandol,
Tq.Erandol, Dist.Jalgaon. ... Respondents.

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Mr.Milind Patil, advocate for the petitioner.
Mr.P.S.Patil, A.G.P for the State.
Mr.A.S.Bajaj, advocate for Respondent Nos.2 to 4.

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**CORAM : S.V.GANGAPURWALA AND
A.I.S.CHEEMA, JJ.**

Date : 09.03.2016.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.
2. Leave to amend.
3. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.
4. The validation proceedings in respect of the caste claim of the petitioner as belonging to 'Rajput Bhamta'(Vimukta Jati) has been rejected. Aggrieved thereby, the present petition.
5. Mr.Patil, learned counsel for the petitioner submits that the proceedings have been

decided by the Committee exparte. The petitioner had filed an application a day in advance for adjourning the matter. The same was not considered and the Committee proceeded to pass the judgment. The reason for adjournment was genuine reason. The father of the petitioner had died and on that count the adjournment was sought. It was not intention of the petitioner to prolong the proceedings. Naturally, when the petitioner was absent, he could not bring it to the notice of the Committee various documents and put forth his contention. The learned counsel submits that an opportunity be given to the petitioner to put forth his contentions on merits before the Committee.

6. Mr.Patil, learned A.G.P states that ample opportunity was given to the petitioner. Time to time the matter was adjourned. The petitioner use to inward adjournment application and go away. Inspite of ample opportunities given, the petitioner did not put forth his case. The Committee on the basis of available document rightly rejected the claim. There are contra

evidence on record.

7. Mr.Patil, learned counsel states that on 8.1.2016, this Court had issued notice and had restrained the Respondents from taking any coercive action against the petitioner. However, on the very same day, the Respondents terminated the service of the petitioner. The said termination order be set aside.

8. Mr.Bajaj, learned counsel for Respondent Nos.2 to 4 submits that the petitioner was appointed from the reserved category. Upon invalidation of his caste claim, the action has been rightly taken by the Respondents.

9. We have considered the submissions and the record. The judgment is an exparte judgment. Lastly the matter was fixed for hearing on 27.10.2015. On 26.10.2016, the petitioner had filed an application for adjournment. According to the petitioner, the father of the petitioner had died on 24.10.2015 i.e. three days prior to the date of hearing. Naturally, on 27.10.2015,

the petitioner can not be expected to remain present for hearing. In normal course for the reason for which the adjournment was sought on 27.10.2015 we would have considered the case of the petitioner and remitted it back without imposing any cost on the petitioner. However, it would appear that on three occasions earlier, the petitioner use to inward his application seeking adjournment a day prior to the date of hearing and never use to attend hearing. No explanation is coming forth for the same. The matter was adjourned on 1.9.2015, 16.9.2015. Earlier to that it was on 20.8.2015. No plausible reasons are given for not remaining present on the said dates.

10. Considering the fact that the matter is regarding the social status of the petitioner and the reason for adjournment on 27.10.2015 was a genuine reason, we are inclined to grant one more opportunity to the petitioner, however, petitioner deserves to be mulct with cost for his consistent absence on earlier occasions. The petitioner is working as a helper and is

terminated during the pendency of the present Petition. As the order of the Committee is being set aside, we also set aside the order of termination and pass the following order :

a) The Writ Petition is partly allowed. The impugned judgment and order passed by the Committee invalidating the caste claim of the petitioner is set aside on payment of cost of Rs.25,000/- (Rupees twenty five thousand) to be paid to Respondent No.1 Committee on or before 30.3.2016.

b) The parties are relegated before the Committee for deciding the validation proceedings afresh. The petitioner shall appear before the Committee on 30.3.2016. The Committee on hearing the petitioner shall decide the said proceedings expeditiously.

c) The order of termination dated 8.1.2016 issued by Respondent No.3 is quashed and set aside. The petitioner shall be reinstated in service but will not be entitled for back wages

from 8.1.2016 till the date of reinstatement which shall be on or before 15.3.2016, however, will be entitled for continuity. The Respondent Nos.2 to 4 are entitled to take further course of action against the petitioner in tune with the judgment of the Committee in the validation proceedings.

d) Rule accordingly made partly absolute.

Sd/-
(A.I.S.CHEEMA, J.)

Sd/-
(S.V.GANGAPURWALA, J.)

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