

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1129 OF 2015

Zuberi Zahirullafaq Baquruddin,
Age: 56 Years, Occu. Service,
R/o. Beed, presently working as
Sectional Engineer [Electrical],
Maharashtra State Road Transport
Corporation, Beed Division,
Beed.

PETITIONER

VERSUS

- 1] The Maharashtra State Road Transport
Corporation, Mumbai, through
its General Manager
- 2] The Divisional Controller,
Maharashtra State Road Transport
Corporation, Beed Division,
Beed.

RESPONDENTS

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Mr. Kalyan Patil, Advocate holding for Mr. S.R. Barlinge,
Advocate for the Petitioner
Mr. S.K.Tambe, AGP for the Respondent
Mr. D.S.Bagul, Advocate for Respondent Nos.1 and 2.

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**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Reserved on : 12.02.2016
Pronounced on: 18.02.2016

JUDGMENT: [Per S.S.Shinde, J.]:

- 1] Heard.
- 2] Rule. Rule made returnable forthwith, and
heard with the consent of the parties.

3] This Writ Petition is filed with following prayers:

- A) By a writ of certiorari, or any other appropriate writ, or order or directions in the like nature, the impugned notice dated 15.01.2015, issued by the respondent No.1 (annexed at Exhibit-E) may kindly be quashed and set aside.
- B) By a writ of mandamus, or any other appropriate writ, or order or directions in the like nature, the respondents be directed to accept the petitioner's validity certificate as belonging to Special Backward Category and absolve him from producing the validity certificate as Scheduled Caste.

Brief facts for filing Writ Petition are as under:

4] It is the case of the petitioner that, he belongs to 'Mehtar' caste, which is recognized as 'Scheduled Caste'. At the relevant time, the petitioner obtained a certificate that, he belongs to 'Mehtar' caste, on 27th September, 1990. It is further the case of the petitioner that, he was later on informed that, as far as Muslim Mehtars are concerned, they are included in Special Backward Category, and therefore, he obtained a certificate to that effect on 19th June, 2014.

5] It is further the case of the petitioner that, his caste certificate as belonging to Special Backward Category was also held to be valid by the Scrutiny Committee at Aurangabad. It is further the case of the petitioner that, he was appointed as Junior Engineer [Electrical] in the Year 1990, and since then, he is in continuous service with the respondents. He has already submitted his validity certificate as belonging to Special Backward Category with the respondents. However, the respondents are demanding the validity certificate as belonging to Scheduled Caste, which the petitioner cannot produce having accepted the certificate of Special Backward Category. Such an action on the part of the employee is perfectly permissible in view of the Government Resolution dated 18th May, 2013.

6] It is further the case of the petitioner that, despite this legal position, respondent No. 1 has issued a notice on 15th January, 2015, which was received by the petitioner on 19th January, 2015, thereby it is threatened that, if the petitioner fails to submit his explanation, the action would be taken against him. Being aggrieved by the said notice, this Petition is filed by the petitioner.

7] The learned counsel appearing for the

petitioner submits that, the 'Mehtar' caste has been included by the Government of Maharashtra in Special Backward Class in the month of June, 2008. Pursuant to inclusion of the said caste in the Special Backward Class category, the petitioner has obtained a certificate that, he belongs to 'Mehtar' Special Backward Class caste, and to that effect the validity certificate has also been issued by the Caste Certificate Scrutiny Committee, Aurangabad Division, Committee No.1, Aurangabad, [in short 'Scrutiny Committee']. Therefore, the learned counsel appearing for the petitioner submits that, the Petition may be allowed.

8] On the other hand, the learned counsel appearing for the respondents, vehemently, opposed the prayer in the Petition. It is submitted that, initially, the appointment of the petitioner was on the post, which was meant for Scheduled Caste category. The petitioner, at the relevant time, claimed that, he belongs to 'Mehtar' Scheduled Caste category, but did not submit validity certificate, and therefore, keeping in view the provisions of Circular issued by the General Administration Department, Government of Maharashtra, dated 18th May, 2013, the impugned notice is issued to the petitioner.

9] We have heard the learned counsel appearing for the petitioner, and the learned counsel appearing for the respondents. With their able assistance, perused the pleading in the Petition, annexure thereto, and the documents tendered across the bar by the counsel appearing for the petitioner, which shows that, Mehtar Caste is included at serial No.7 in Special Backward Class Category in the month of June, 2008. It is true that, the petitioner, who claims that, he belongs to 'Mehtar' caste, was appointed on the post, which was reserved for Scheduled Caste category. It further appears that, neither the petitioner, nor the respondents bothered to send the certificate for validation / scrutiny to the Scrutiny Committee. According to respondents, at the relevant time, 'Mehtar' caste was included in Scheduled Caste category. It appears that, 'Mehtar' caste was included at serial No. 7 in Special Backward Class category in the month of June, 2008, by the Government of Maharashtra. The relevant entry reads thus:

7	Muslim Religious Bhangi* / Mehetar* / Lalbeg*/Halalkhor*/Khakrob*	*Included at Sr No.7 in 2008 June
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11] Therefore, from the month of June, 2008,

'Mehtar' caste is included in Special Backward Class category. It further appears that, the petitioner obtained certificate that, he belongs to 'Mehtar' Special Backward Class category, and the same was sent for verification / scrutiny, and accordingly, to that effect the Scrutiny Committee issued a certificate of validity, copy of which is placed on record at Exhibit-C, Page-13. Upon careful perusal of the certificate of validity referred herein above, it is crystal clear that, the certificate of validity is issued on 24th June, 2014. It appears that, at the time of filing Petition, the petitioner's age is 56 years, and by this time, the petitioner might have crossed 57 years of age. In view of the fact that, the 'Mehtar' caste was included in Special Backward Class by the Government of Maharashtra in the month of June, 2008, and to that effect the certificate of validity, showing that, the petitioner belongs to the said caste, which is included in the Special Backward Class, has been placed on record. Therefore, in the peculiar facts and circumstances of the case, when the petitioner is at the fag end of his service career, belated attempt on the part of the respondents to send the show cause notice to the petitioner on 15th January, 2015, [copy of which is placed on record at Exhibit-E Page 24 of the compilation of the Writ Petition],

asking him to submit certificate of validity that, he belongs to Mehtar Scheduled Caste category, cannot be countenanced. In fact, as per the procedure, the employee has to send the proposal for scrutiny of the caste / tribe certificate through the employer. The respondents should have insisted for submitting such certificate of validity soon after appointment of the petitioner or within reasonable period of appointment of the petitioner. However, the respondents allowed the petitioner to render his services from 1990 till 2015, and Mehtar caste is now included in Special Backward Class category in the month of June, 2008, and thereafter, the petitioner has already obtained a certificate of validity from the said Scrutiny Committee. In the light of discussion herein above, in our opinion, the petitioner is entitled for the equitable relief.

12] In that view of the matter, in the peculiar facts of this case, the Petition deserves to be allowed in terms of prayer clause 'A' and 'B'. Accordingly, Rule is made absolute in terms of prayer clauses 'A' and 'B'. Writ Petition stands disposed of.

Sd/-
[P.R.BORA]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE