

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 1338 OF 2015**

RAGHUVIR DHANRAJ YERKAL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Jadhavar Pratap V.

AGP for Respondent/State : Mr. S.K. Tambe

Advocate for Respondent no.2 : Mr. Bade Patil K.D.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.**Dated: January 21, 2016**

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PER COURT :-

Heard the learned counsel appearing for the petitioner, the learned A.G.P. appearing for the Respondent/State and the learned counsel appearing for Respondent No.2.

2. Placing reliance on the judgment of the Full bench of this Court in the case of **Arun Vishwanath Sonone Vs. State of Maharashtra and others (2015(1) Mh.L.J. 457)** and the judgment of this Court in case of **Prakash S/o Motiram Piratwad Vs. The State of Maharashtra and ors.**, in Writ Petition No. 7434 of 2011 delivered on 26th June, 2015, the learned counsel for the petitioner submits that, the petitioner is entitled for protection in service. He, therefore, submits that, Petition deserves to be allowed in the light of aforesaid judgments.

3. The learned A.G.P. has placed on record letter written by the Joint Director of Vocational Education and Training, Regional Office, Aurangabad dated 21st December, 2015 along with chart showing position of vacancies of posts of Instructor. There are 29 vacancies of the said post.

4. The learned A.G.P. also submits that, the action has been rightly taken. merely because no case of any fraud being played in obtaining the caste certificate is made out, that by itself would not be sufficient to contend that the consequences specified under Section 10 of the Maharashtra SC, ST, DNT, VJNT and SBC (Regularization of Issuance and Verification of Caste Certificates) Act, 2000 would not follow. The petitioner cannot claim for any protection in service.

5. In the light of above, for the reasons recorded in the judgment dated 26th June, 2015 delivered by this Court in Writ Petition No. 7434 of 2011 in the case of **Prakash S/o Motiram Piratwad** (supra), we pass the following order :

ORDER

I) The order dated 7th January, 2006 passed by the Respondent No.4 terminating services of the petitioner is quashed and set aside. The respondent No.4 is directed to reinstate the petitioner in service. However, the petitioner would not be entitled for back wages from 8rd January, 2006 till he is reinstated in service. The said period,

nonetheless, be counted for continuity in service and for all future retiral and monetary benefits.

II) The petitioner naturally, would not be entitled for the benefit of his Scheduled Tribe category and entry of the same would be taken in the service book of the petitioner.

III) Writ Petition is accordingly partly allowed and disposed of. No costs.

(**P.R. BORA, J.**)

(**S.S. SHINDE, J.**)

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