

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

WRIT PETITION NO. 3899 OF 2010

Sandip S/o Nagnathrao Shriramwar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. R. Barlinge, Advocate for the Petitioner.

Shri B. V. Virdhe, A.G.P. for Respondent Nos. 1 to 3.

CORAM : S. V. GANGAPURWALA AND

A. I. S. CHEEMA, JJ.

DATE : 07TH MARCH, 2016.

PER COURT :

. Leave to add documents.

2. Mr. Barlinge, the learned counsel submits that, the Committee erroneously rejected the tribe claim of the petitioner as belonging to Chhatri (Scheduled Tribe). The learned counsel submits that, voluminous documents suggesting the caste of the petitioner as Chhatri have been discarded on erroneous grounds. The old document of the year 1337 Fasli is on record, which is the copy of the sale deed in respect of petitioner's relative. The same is not considered. The learned counsel submits that, the order in appeal also shows the caste of the petitioner's relative Sanjay Sudhakar Sangawar as Chhatri. Even in respect of school record

of petitioner's sister caste is mentioned as Chhatri. However, all this record has not been considered only on the ground that in some of the documents caste is recorded as Shimpi. The committee has also not considered the affinity test in its correct perspective.

3. The learned counsel submits that, the petitioner is appointed as Tax Valuer on 11.01.1999 and is continuously in service. He has not been promoted after 2001. The learned counsel in the alternate submits that, in view of the judgment of the Full Bench of this Court in the case of **Arun Vishwanath Sonone Vs. State of Maharashtra** reported in **2015(1) Mh.L.J. 457**, the petitioner is entitled for protection in service.

4. The learned Assistant Government Pleader submits that, the Committee has considered all the documents on record. The contra evidence on record clearly shows that the petitioner belongs to Shimpi caste. The petitioner's own school record shows caste as Shimpi. The other documents of the petitioner and also school record of his father show the caste as Shimpi.

5. We have considered the submissions canvassed by the learned counsel for respective parties. So also we have gone through the judgment.

6. Though some of the documents record caste as Chhatri in respect of petitioner's relative, but there is contra evidence on record showing the caste of the petitioner and his father recorded as Shimpi in the school record. The old document of the petitioner's, his father's and uncle's school record shows the caste recorded as Shimpi. The original school record was also produced before the Committee. The Committee has verified the same. The Committee on examination of the documents threadbare has arrived at plausible conclusion. In the light of that, we are not inclined to entertain the case of the petitioner with regard to the challenge to the order of the committee.

7. The petitioner as stated is appointed on 11.01.1999 by the respondent No. 3 i. e. prior to the enactment of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act. In view of the judgment of the Full Bench of this Court in the case of **Arun Vishwanath Sonone Vs. State of Maharashtra** referred supra, in case the caste certificate/tribe certificate is not obtained by fraud, then the service of the petitioner can be protected. The Committee has nowhere arrived at finding of fraud. There are documents showing either caste. In the light of that, the petitioner would be entitled to the benefit of judgment of the Full Bench of this Court

in the case of **Arun Vishwanath Sonone Vs. State of Maharashtra** referred supra.

8. In the result, we pass following order.

9. The judgment passed by the Committee invalidating the caste claim of the petitioner as belonging to Chhatri (Scheduled Tribe) is upheld and maintained. However, the respondents shall not take any adverse action against the petitioner only on the ground that, his tribe claim has been invalidated. The petitioner also shall not be entitled for benefit of reservation as belonging to Chhatri (S.T.) in service or any other walk of life. The entry of this order shall be taken in the service book of the petitioner. The writ petition is disposed of. No costs.

[**A. I. S. CHEEMA, J.**]

[**S. V. GANGAPURWALA, J.**]