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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.5029/2016

Shrawan s/o Bandu Sonune,
age 59 yrs., occu.pensioner,
r/o Kothakoli Tq.Bhokardan.
Dist.Jalna.

...Petitioner..

Versus

- 1] Chief Executive Officer,
Zilla Parishad, Jalna.
- 2] The Education Officer (Primary),
Zilla Parishad, Jalna.
- 3] Scheduled Tribes Certificate
Scrutiny Committee, Aurangabad.
Dist.Aurangabad.

...Respondents...

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Shri D.R. Irale Patil, Advocate for petitioner.
Shri S.S. Tope, Advocate for respondent nos.1 & 2.
Shri A.R. Kale, AGP for respondent no.3.

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**CORAM: R.M. BORDE &
K.L. WADANE, JJ.**

DATE: 14.06.2016

ORAL JUDGMENT (Per Borde, J.) :

1] Heard learned counsel for the parties. Rule. Rule made returnable forthwith and with the consent of learned counsel for the parties, the petition is taken up for

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final disposal.

2] The petitioner is making a grievance in respect of withholding of the amount receivable by the petitioner towards pension, gratuity, commutation, group insurance and other consequential pensionary benefits amounting approximately to Rs.10,00,000/-. The petitioner claims to belong to Malhar Koli – scheduled tribe and on the basis of the tribe certificate issued by the competent authority, he was appointed as an Assistant Teacher as against the post ear-marked for scheduled tribe category in the year 1986. The proposal in respect of validation of the tribe certificate is referred to the scrutiny committee and as yet no decision has been taken.

3] During the service tenure, the petitioner was promoted to the post of Head Master. He retired on attaining the age of superannuation on 31.7.2015. The pension papers of the petitioner were forwarded prior to his retirement to the competent authority and it is informed that the competent authority has allowed the pension claim of the petitioner. The employer – Zilla Parishad, however, has refused to disburse the amount mainly for the reason that the petitioner has not

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produced validation certificate and the validation claim in respect of the tribe certificate has not been yet decided by the scrutiny committee. The petitioner has been informed that he would receive the amount after production of the validation certificate issued by the competent scrutiny committee.

4] The reason for withholding the pensionary benefits receivable by the petitioner is illogical. It must be taken note of that the eligibility to the pension is the right earned by the petitioner by virtue of the services rendered by him for required number of years. The pensionary benefits cannot be withheld for such an illogical reason. It is also the policy of the State Government to accord protection to the employees who were inducted in employment prior to 2000 even if they fail to tender the validation certificate or their caste certificates are found to have been invalidated by the scrutiny committee.

5] In the instant matter, the tribe validation claim of the petitioner is pending with the scrutiny committee and the same has not yet been decided. The petitioner was appointed in the year 1986 and even if it is assumed that

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he fails to substantiate his tribe claim, he is entitled to claim service protection and as a consequence is also entitled to earn the pensionary benefits.

6] For the reasons recorded above, the writ petition deserves to be allowed and the same is accordingly allowed. The respondents are directed to disburse the amount receivable by the petitioner towards the pensionary benefits as expeditiously as possible and preferably within a period of eight weeks from today. Rule is accordingly made absolute with no order as to costs.

(K.L. WADANE, J.)

(R.M. BORDE, J.)