

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.7295 OF 2010

Sangita Vithal Pawar Vs. The Scheduled Tribe Certificate Scrutiny Committee, Nashik through its Member Secretary and another.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.S.Phatale, advocate for the Petitioner.
 Mr.P.S.Patil, A.G.P for the State.
 Mr.D.K.Rajput, advocate for Respondent No.2.

**CORAM : S.V.GANGAPURWALA AND
 A.I.S.CHEEMA, JJ.
 Date : 28.03.2016.**

PER COURT :

1. Heard.
2. Mr.Phatale, learned counsel for the petitioner on instructions states that petitioner would not agitate the judgment of the Committee to the extent of invalidating the tribe claim of the petitioner as belonging to Thakur Scheduled Tribe, more particularly, in view of the fact that the Writ Petition filed by the real brother of the petitioner against the judgment of the committee invalidating his tribe claim as belonging to Thakur Scheduled Tribe is rejected by this Court at its Principal seat at Bombay in W.P.No.3834/2007.

3. Learned counsel submits that the petitioner is appointed as

Assistant Teacher in the year 1997 and since then continuously officiating on the said post. The learned counsel submits that in view of the judgment of the Full Bench of this Court in the case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** reported in **2015 (1) Mh.L.J.457**, the services of the petitioner be protected. The learned counsel for the Zilla Parishad i.e. Respondent No.2 submits that petitioner has been appointed from the reserved category on a post meant for Scheduled Tribe. Once the validity has been rejected, the petitioner can not claim such a protection.

4. We have considered the submissions. The judgment of the Committee in case of real brother of the petitioner has been considered by this Court at its Principal seat at Bombay in W.P.No.3824/2007. The tribe claim of the petitioner's real brother is invalidated by the Committee and confirmed by this Court at its Principal seat Bombay in W.P.No.3834/2007. In view of that, the petitioner has also given up his challenge to the judgment of the Committee. On going through the judgment of the Committee, it appears that the Committee has considered all the relevant aspects of the matter and has arrived at a plausible conclusion.

5. On going through the judgment, it is manifest that there is no finding of fraud. It is only that petitioner could not prove his tribe claim. In such a case, the petitioner who is appointed in the

year 1997, his services can be protected in view of the judgment of the Full Bench of this Court in the case of “**Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others**” referred to supra.

6. In the result, we pass the following order :

- a) The judgment of the Committee invalidating the tribe claim of the petitioner is upheld and confirmed.
- b) The Respondent No.2 employer shall not terminate the services of the petitioner only on the ground that his tribe claim has been invalidated.
- c) The petitioner shall not be entitled to claim benefit of reservation in service nor in any walk of life. The entry of this order shall be recorded in the service book of the petitioner. The tribe certificate of the petitioner shall stand confiscated as ordered by the Committee.
- d) The Writ Petition is accordingly disposed of with aforesaid observations and directions. No costs.

(A . I . S . CHEEMA , J .)

(S . V . GANGAPURWALA , J .)

Dt.28.03.2016.

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