

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11343 OF 2015

Sanjy S/o Pratapsing Patil

Petitioner

Versus

The State of Maharashtra

Respondents

Mr.D.B.Thoke advocate for the petitioner

Mr.B.V. Virdhe, Assistant Government Pleader for Respondent No.1 & 2

Mr. S.B. Yawalkar advocate for respondent No.4

CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ

Dated : 29th FEBRUARY, 2016.

PER COURT :-

1 The petitioner is objecting to the order of invalidation of the caste certificate recorded by the scrutiny committee on 26.8.2015.

2 The petitioner claims to belong to Rajput Bhamta VJNT category. Since the petitioner was appointed as against a seat earmarked for VJNT category, as an Assistant Teacher with respondent No.5 school, run by respondent No.4 institution, the caste certificate issued in his favour was referred for verification to respondent No.2 scrutiny committee. The scrutiny committee,

on consideration of the evidence produced by the petitioner on record as well as the report of the Vigilance Cell directed invalidation of the caste certificate issued to the petitioner. The petitioner apprehending threat to his employment, has approached this Court seeking quashment of the aforesaid order passed by the scrutiny committee.

3 It is not a matter of dispute that the petitioner was inducted in the employment in the year 1996 and by virtue of the Judgment delivered by the full bench of this Court in case of ***Arun Vishwanath Sonone V/s. State of Maharashtra and others*** reported in 2015 (1) Mh. L.J. Page 457, he is entitled to claim protection in respect of employment. The petitioner has tendered an undertaking that he is accepting the decision rendered by the scrutiny committee on 26.8.2015 directing invalidation of the caste certificate issued to him and that hence forth, he will not claim any benefit available to VJNT category either for claiming promotion or any other service benefits. The undertaking submitted today is taken on record and marked 'X' for identification.

4 The request made by the petitioner for grant of protection in the matter of employment is in tune with the decision of the full

bench of this Court in the matter of ***Arun Vishwanath Sonone V/s State of Maharashtra***. The full bench has observed in the Judgment as below:-

"75. We, therefore, do not enter into the merits of the claim and leave it for the concerned Benches to decide, on the facts and circumstances of each case, whether the protection need to be granted or not. But we conclude in this Judgment that -

(i) mere invalidation of the caste claim by the Scrutiny Committee would not entail the consequences of withdrawal of benefits or discharge from the employment or cancellation of appointments that have become final prior to the decision in Milind's case on 28.11.2000.

(ii) upon invalidation of the caste claim by the Scrutiny Committee, the benefits obtained or appointments secured from 28.11.2000 up to 18.10.2001 can be withdrawn or cancelled, depending upon the terms of the employment, if any, in writing.

(iii) the benefits obtained or appointments secured after coming into force the said Act on 18.10.2001 can be withdrawn or cancelled immediately upon invalidation of the caste claim by the Scrutiny Committee,

(iv) the benefit of protection in service

upon invalidation of the caste claim is available not only to the persons belonging to "koshti" and "Halba Koshti", but it is also available to the persons belonging to Special Backward Class category on the same terms as is available to "Koshti" and "Halba Koshiti", and

(v) the claim of the persons belonging to Nomadic Tribes, Vimukta Jati and Other backward Class category shall be decided on the lines of the decision of the Apex Court in the case of R. Unnikrishnan and another vs. V. K. Mahanudevan and others, reported in 2014 (4) Mh.L.J. (S.C.)¹ = 2014 (4) SCC 434. "

5 In view of the observations of the full bench referred to above, we are of the opinion that the petitioner is entitled to protection in employment since he has been inducted in the employment in 1996, even though the validation proposal tendered by the employer has been turned down by the scrutiny committee. We have perused the Judgment delivered by the scrutiny committee and we do not find that the petitioner has indulged in practicing fraud or relied upon false or fabricated documents to substantiate his claim before scrutiny committee. In this view of the matter the reasonable request of the petitioner deserves to be accepted. The order passed by the scrutiny

committee directing invalidation of the caste certificate issued to the petitioner on 26.8.2015 is confirmed. However, respondent Nos.3 to 5 are directed not to take any coercive action against the petitioner so far as his services are concerned and permit him to continue in employment. It is clarified that petitioner shall not be entitled to claim benefits as member of VJNT category in claiming promotion or any other employment benefit or the benefits available under Government scheme to reserve category candidate, on the basis of his claim of belonging to VJNT category.

6 Writ petition is disposed of accordingly.

(A.I.S. CHEEMA, J)

(R.M.BORDE, J)