

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

WRIT PETITION NO.426 OF 2016

Rahul Laxmanrao Pasalwad
Age 29 years, Occu. Service,
R/o Shiv Vijay Colony, Nanded,
Taluka and District Nanded

... PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary,
Scheduled Tribe Department,
Mantralaya, Mumbai – 32
(Copy to be served on Govt. Pleader,
High Court of Judicature of Bombay,
Bench at Aurangabad)
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad, through its
Vice Chairman
3. The Headmaster,
Shri Shivaji Secondary and
Higher Secondary School,
Maniknagar, Nanded,
Taluka and District Nanded.
4. The Education Officer (Secondary),
Zilla Parishad, Nanded,
Taluka and District Nanded.

... RESPONDENTS

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Shri P.V. Jadhavar, Advocate for petitioner
Shri S.B. Pulkundwar, A.G.P. for State
Shri K.D. Bade Patil, Advocate for respondent No.2
Shri V.S. Panpatte, Advocate for respondent No.3

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CORAM: R.M. BORDE AND
 A.I.S. CHEEMA, JJ.

DATED: 11th February, 2016.

ORAL JUDGMENT (Per : R.M. Borde, J.) :

1. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the petition is taken up for final hearing at admission stage.

2. The petitioner claims to belong to Mannerwarlu – Scheduled Tribe. He has been appointed after observing the procedure prescribed in that behalf in respondent No.3 School as a Shikshan Sevak since 1.7.2008. The petitioner's services have been approved by the respondent Education Officer for a period between 1.7.2008 to 30.6.2011. The petitioner has tendered a proposal for validation of the tribe certificate issued to him in the year 2013 and the matter is stated to be pending with the Scrutiny Committee since then.

3. In the facts of this case, the Scrutiny Committee is directed to take decision on the proposal in respect of validation of the tribe certificate issued to the petitioner as expeditiously as possible, preferably within a period of one year from today and it

is accordingly directed.

4. The petitioner has pointed out that, as a result of his failure to submit validation certificate, his services have been terminated by the respondent school w.e.f. 5.12.2015. The act of the respondent school in directing termination of the services of the petitioner appears to be illegal. It is not a matter of dispute that the proposal in respect of validation of the caste certificate is pending with the Committee and it is not within the reach of the petitioner to secure a validation order from the respondent No.2 Committee within the prescribed period. It was not open for respondent No.3 to terminate the services of the petitioner in the absence of any decision by the Scrutiny Committee in respect of the tribe certificate.

5. The petitioner was initially appointed as a Shikshan Sevak on 1.7.2008 and admittedly he has completed his tenure as a Shikshan Sevak since 30.6.2011. As per the Shikshan Sevak Scheme formulated by the State Government, on completion of three years tenure, the petitioner ought to have been continued in employment as an Assistant Teacher and he ought to have been paid in the pay scale prescribed for the Assistant Teachers. The Education Officer shall have to issue a letter of approval to the services of the petitioner as an Assistant

Teacher since he has completed three years tenure of Shikshan Sevak. In this view of the matter, the order passed by the respondent No.3, directing termination of the services of the petitioner by order dated 3.12.2015 is quashed and set aside. The respondent No.3 is directed to reinstate the petitioner in employment as an Assistant Teacher as expeditiously as possible, preferably within a period of three weeks from today. Since the petitioner has completed three years tenure as a Shikshan Sevak on 30.6.2011, he shall be entitled to receive the salary admissible to an Assistant Teacher in the prescribed pay scale. The arrears of salary receivable by the petitioner from 1st July 2008 till his reinstatement shall be disbursed by the respondents within a period of eight weeks from today.

6. Rule is made absolute in above terms.

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

(R.M. BORDE, J.)