

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.12396 OF 2015

Pramod s/o Shantaram Koli

Petitioner

Versus

State of Maharashtra & others

Respondents

Mr.S.M.Kulkarni, advocate for the petitioner.

Mr.S.K.Kadam, A.G.P. for Respondents No.1 & 2.

Mr.S.B.Bhosale, advocate for Respondent No.4.

CORAM : R.M.BORDE &

A.I.S.CHEEMA, JJ.

DATE : 24th February, 2016

PER COURT:

1 The petitioner is objecting to the order dated 31.08.2015, passed by the Scrutiny Committee directing invalidation of caste/tribe certificate issued to him by the competent authority.

2 The petitioner claims to belong to Tokre Koli, a Scheduled Tribe. Petitioner, on the strength of caste/tribe certificate issued to him, has secured admission to B.A.M.S. Degree Course as against a seat earmarked for Scheduled Tribe category. The petitioner has already completed the degree course as well as internship. However, as a result of invalidation of caste/tribe certificate of the petitioner, the University has refused to issue degree certificate as well as internship completion certificate and other documents.

3 We have perused the order passed by the Scrutiny Committee directing invalidation of caste/tribe certificate issued in favour of the petitioner. In the school record of father of the petitioner, entry in respect of his caste is recorded as "Hindu Suryawanshi Koli". The proposals for verification respect of caste certificates issued in favour of father and real brother of the petitioner were also taken up for consideration by the Scrutiny Committee and the issue has been decided by a common judgment. Similarly, the Scrutiny Committee found that entries in the school record of the petitioner as well as his brother are of recent origin and in the certificate issued in the year 1948 in favour of grandfather of the petitioner, his caste is recorded as "Koli" and not "Tokre Koli", as claimed by the petitioner. Since old pre-Constitution record is not in consonance with the claim raised by petitioner, the Scrutiny Committee was justified in turning down the proposal for verification of his caste/tribe certificate. Apart from this, the Scrutiny Committee has recorded a finding that the petitioner has failed to prove his affinity to "Tokre Koli", a Scheduled Tribe. We do not find any inconsistency or illegality in the well reasoned order passed by the Scrutiny Committee.

4 The relief in respect of seeking a direction to quash the order passed by the Scrutiny Committee, invalidating caste/tribe certificate issued in favour of the petitioner, stands rejected.

5 The petitioner has also prayed for issuance of directions to the Respondents to issue B.A.M.S. Degree certificate, Internship Completion Certificate and other documents.

6 It is not a matter of dispute that the petitioner has completed studies of B.A.M.S. Course and has also undergone internship. Since the petitioner has gained expertise, it is not desirable to withhold the benefits accruable to the petitioner merely on account of the fact that he has failed to establish his tribe claim as belonging to Scheduled Tribe category. The Hon'ble Supreme Court, in identical circumstances, while dealing with the issue, has extended protection to the students who have undergone professional training or extended protection to the employees who were in employment for number of years, in the matter of **R. Vishwanatha Pillai Vs. State of Kerala and others**, reported in (2004) 2 SCC 105. The Supreme Court, while observing that that the student has completed the course under interim orders of the Court, directed to declare result and the student was allowed to take degree with the condition that he will not claim benefits as a Scheduled Caste candidate in future either in obtaining service or for any other benefits flowing from the caste certificate obtained by him.

7 Reliance can also be placed on the judgment of the Supreme Court in the matter of **State of Maharashtra Vs. Milind and others**, reported in (2001) 1 SCC 4. The Hon'ble Supreme Court, in the case of a candidate – Respondent No.1 before the Supreme Court, after noticing that he has failed to substantiate his claim, has directed not to take any adverse action against him and to permit him to continue with his practise as a Doctor. In paragraph no.38 of the judgment, the Apex Court has observed thus:

“38 Respondent No.1 joined the medical course for the year 1985-86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practising as a doctor. In this view and at this length of time it is for nobody's benefit to annul his admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to Respondent 1. If any action is taken against Respondent 1, it may lead to depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree obtained by him and his practising as a doctor. But we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP © No.16372 of 1985 and other related matters, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment.”

8 In the instant matter also, the petitioner has completed professional course and has also undergone internship. As in the case of **Milind** (*supra*), it cannot be denied that huge public money has already been spent on the petitioner for completion of professional course and prohibiting such candidate from rendering services to the Society would amount to depriving services of a trained professional to the society.

9 In this view of the matter, we direct concerned Respondents to issue B.A.M.S. Degree certificate, Internship Completion Certificate and other documents to the petitioner forthwith. Petitioner undertakes not to claim any benefits as a member belonging to Scheduled Tribe category while securing employment or other benefits flowing from any Government Policy. Undertaking is accepted.

10 In view of above directions, writ petition stands disposed of.

A.I.S.CHEEMA
JUDGE

R.M.BORDE
JUDGE

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