

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1936/2016

(SUNIL BAPURAO DHARMIK **VERSUS** M.S.R.T.C., MUMBAI & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri N. Autkar, counsel for the petitioner.
 Shri P.S. Tembhare, A.G.P. for the R-2.

CORAM : SMT.VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : APRIL 18, 2016.

The only prayer made by the petitioner in this writ petition is for a direction against the respondents for extending the benefit of protection of services to the petitioner as Assistant Divisional Accounts Officer in view of the judgment of the Full Bench reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone Versus State of Maharashtra & Others*) and the judgment in the case of *Kavita Solunke Versus State of Maharashtra & Others*. The petitioner seeks a direction against the respondent no.1 to reinstate the petitioner in service and protect his services as the petitioner has given up his caste claim and the petitioner would not claim back wages from the respondent no.1.

The petitioner has very intelligently joined the Director, Scheduled Tribes Caste Certificate Scrutiny Committee, Nagpur as the party respondent no.2 to institute the writ petition in the Nagpur Bench of the Bombay High Court. The respondent no.2-Committee is neither a necessary party to this writ petition nor is it a proper party. The only relief sought by the petitioner is against the respondent no.1-Maharashtra State Road Transport Corporation having its Office at Vahatuk Bhavan, Mumbai Central, Mumbai. The Nagpur Bench would not have the territorial jurisdiction to entertain and decide the writ petition and the writ petition is maintainable only at the Principal Seat of the Bombay

High Court. The petitioner has, however, instituted the writ petition seeking protection, in the Nagpur Bench. A preliminary objection is, therefore, rightly raised on behalf of the respondent no.2 that the writ petition would not lie before the Nagpur Bench.

We have found on most of the occasions that when writ petitions are filed at the Nagpur Bench seeking protection of services against Government Authorities or local bodies that are situated in Mumbai, Konkan, Kolhapur or Pune region, the said respondents are not represented in this Bench as they normally have local counsel that represent their matters at the Principal Seat. It is, therefore, not possible for this Bench to find out whether the averments made in the petition are true or not. This is an additional difficulty in the way of this Bench in deciding the matters seeking protection. Neither a part of cause of action nor a fraction of a cause of action arises within the territorial jurisdiction of the Nagpur Bench as the only relief sought by the petitioner is for the protection of his services. Since the employer against whom the said relief is sought is located at Mumbai, the Nagpur Bench would not be in a position to entertain the writ petition, specially in the backdrop of the difficulty faced by this Court while deciding the matter in the absence of proper representation from the side of the respondents. We reject the submission made on behalf of the petitioner that since the Scrutiny Committee that is situated within the territorial jurisdiction of the Nagpur Bench has invalidated the caste claim of the petitioner, a part of cause of action would arise within the jurisdiction of the Nagpur Bench. A part of the cause of action would not arise within the jurisdiction of the Nagpur Bench in a case where the only relief sought by the petitioner is for the protection of his services. In the circumstances of the case, we decline to entertain the writ petition at the Nagpur Bench.

The writ petition is disposed of with no order as to costs.

The points raised in the petition are kept open.

JUDGE

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