

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3888 OF 2015.

Vinod Vithalrao Dhobe and ors.

..VS..

Chief Executive officer, Z.P., Wardha and ors.

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

Court's or Judge's orders

Mr.A.Z.,Jibhkate, Advocate for the petitioners.
Mr.P.D.Meghe, Advocate for respondent nos.1 and 2.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : APRIL 4, 2016.

This petition was heard along Writ Petition No.4592 of 2015
on 15th of December, 2015 and this Court has passed following order.

“Shri Meghe, the learned counsel for the respondents, states that the Zilla Parishad would consider absorbing the petitioners, who possess the caste validity certificate, in Zilla Parishad, Wardha as per their position in the seniority list and would also refer the caste claim of other petitioners to the scrutiny committee for verification. It is stated that in case, the caste claim of the petitioners are validated by the scrutiny Committee and a caste validity certificate is issued, the Zilla parishad would also absorb those petitioners in Zilla Parishad, Wardha as per their placement in the seniority list.

Shri Jibhkate, the learned counsel for the petitioners, states that the teachers that are working in

Zilla Parishad, Wardha in place of the petitioners on the posts earmarked for the Scheduled Tribes also do not possess the caste validity certificate. It is stated that those teachers ought to have been absorbed in Zilla parishad, Jalgaon.

Shri Meghe, the learned counsel for the respondents, states that the said submission does not find place either in the original writ petition or the civil application filed by the petitioners.

In the background, we grant time to the respondents to verify the position and make an appropriate statements on the next date of hearing.

Stand over to 19.01.2016.”

Thereafter, Writ Petition No.3888 of 2015 was heard on 28th of January, 2016 and the following order has been passed.

“Heard.

In terms of order dated 15/12/2015, it is submitted by Shri P.D.Meghe, the learned counsel for the respondent nos.1 and 2 that the respondent – Zilla Parishad has now called for the caste validity certificate from the petitioners as well as the candidates who are retained at Zilla Parishad, Wardha. Presently, some of the candidates have submitted the caste validity certificate. He further submits, on instructions, that the cases of those

candidates who have submitted the caste validity certificate and who are placed on a higher position in the seniority list would be considered for absorption. He, however, submits that said exercise would require some time and by the commencement of the next academic session appropriate steps would be taken in that regard.

The petitioners, in case they possess a validity certificate should furnish copies of the same to the Zilla Parishad , within a period of four weeks from today.

List the writ petition for further consideration on 04/04/2016.”

In the backdrop of this development, Advocate Shri Meghe, upon instructions, states that four of the petitioners have produced caste validity certificates and hence their files are in process. According to him, after process is complete, most probably in next four weeks, the said petitioners will receive orders of absorption. He, however, adds that for remaining three petitioners, as their caste validity is still not received, the absorption cannot be looked into.

Advocate Jibhkate submits that the recruitment process was taken up in 2007 and then list of deserving persons selected for recruitment was prepared. In view of fact that the number of posts for recruitment is subsequently reduced, the petitioners were sent to

Jalgaon Zilla Parishad for absorption. Now, in view of later developments they are to be absorbed by Z.P.Wardha itself. He submits that employees who are similarly situated even though do not have validity certificates are today in service. He further submits that as caste claim of respective petitioners were not forwarded to Scrutiny Committee, they could not get validity till date. However, the moment validities are given, the same shall be made available to employer.

In this situation, as petitioners do not have validity till 2007 but certain candidates whose names figured in same list have been recruited without insisting for validity, we find it appropriate to direct respondent no.1 to proceed to provisionally appoint the petitioners who do not have validity, within period of four weeks. The appointment shall be subject to production of validity issued by competent Caste Scrutiny Committee. Said Scrutiny Committee is not party before this Court, however, we expect that, concerned Committee shall consider the claims of respective petitioners within a period of eight months from today. Petitioners as also respondent no.1 to forward copy of this order to that Committee.

If validity is given to the petitioners, such of them who get validity, shall be deemed to be absorbed in the employment of respondent no.1.

Shri Meghe has pointed out that the list prepared for

absorption is itself questioned in Writ Petition No.940 of 2016. Petitioners before this Court are not parties to that petition. But, the absorption of petitioners shall be subject to order of this Court in said writ petition. Copy of this order be placed on record of Writ Petition No.940 of 2016 within one week.

Accordingly, Writ Petition is partly allowed and disposed of.

No costs.

JUDGE

JUDGE

Chute.