



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

...

WRIT PETITION NO. 4674/2016

Shri Chandusing s/o Harsing Padwal
Aged about 51 years, occu: service
R/o At Ujwal nagar
Post: Palodi, Tah, Manora
Dist. Washim.

..PETITIONER

versus

- 1) The Chief Executive officer
Zilla Parishad, Washim.
- 2) The Education Officer (primary)
Zilla Parishad, Washim.
- 3) The Headmaster
Zilla Parishad Primary School
Shendurjana Adhav, Tah. Manora
Dist. Washim.

..RESPONDENTS

.....
Shri P.V. Bansod, Advocate for petitioner
Shri Amol Deshpande, Advocate for Respondent nos. 1 and 3
Shri I.J. Damle, Assistant Government Pleader for Respondent No.2.
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**CORAM: SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ**

DATED: 9th December, 2016.

JUDGMENT : (PER MRS. SWAPNA JOSHI, J.):

Rule. Rule made returnable forthwith. The petition is heard finally at the stage of admission, with the consent of the learned counsel for the parties.

2. By this Writ Petition, the petitioner impugns the order dated 27.07.2016

passed by the respondent no.1-Chief Executive Officer, Zilla Parishad, Washim, terminating his services as an Assistant Teacher. The petitioner also prays for a direction to protect his services, in view of the judgment of the Full Bench, in the case of Arun Sonone vs. State of Maharashtra.

3. Brief facts of the case are that, the petitioner was appointed as an Assistant Teacher by the Chief Executive Officer, Zilla Parishad, Akola, vide appointment order, dated 06.10.1992. The caste claim of the petitioner was referred to the Scrutiny Committee, for verification. However, the Scrutiny Committee invalidated the caste claim of the petitioner by the order dated 31.07.2013. The petitioner is simply seeking the protection of his services from the respondent nos. 1 to 3.

4. Learned counsel for the petitioner, Shri P.V. Bansod, contended that the services of the petitioner need to be protected, in view of the judgment of the Full Bench, in the case of Arun Sonone vs.State of Maharashtra, reported in 2015(1) Mh.L.J. Page 457. He submitted that as per the directions in the said judgment, it is necessary that the petitioner is to be appointed before the cut off date i.e. 28.11.2000 and there should be no observation that the petitioner had fraudulently secured the benefits meant for Vimukta Jati. Shri Bansod, the learned counsel, further submitted that the petitioner has fulfilled both these conditions. The petitioner was appointed on 06.10.1992 and caste claim of the petitioner is rejected by the Scrutiny Committee, as the petitioner could not prove the same on the basis of the documents required to prove that he belongs to 'mathura Labhan' VJ-A as well as the affinity test. According to the learned counsel for the petitioner, the petitioner has chosen the caste/validity certificate for 'Mathura Labhan' Vimukta Jati-A, whereas given up his claim as belonging to "Naikada" Scheduled Tribe.

5. Learned Assistant Government Pleader, Shri I.J.Damle, for the respondent no.2 and Shri Amol Deshpande, learned counsel for respondent nos. 1 and 3 do not dispute the settled position of law, as laid down in the

judgment of the Full Bench (*supra*). It is fairly admitted that in the order of the Scrutiny Committee, there is no observation that the petitioner had fraudulently secured the benefits meant for 'Mathura Labhan' VJ-A.

6. After hearing both the sides and on a perusal of the record and the judgment of the Full Bench, it appears that the services of the petitioner are required to be protected. The petitioner was admittedly appointed before the cut off date i.e. 28.11.2000. So also, there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for Vimukta Jati-A. The caste claim of the petitioner was invalidated as he could not prove the same on the basis of the documents produced by him before the Scrutiny Committee. The petitioner has fulfilled both the conditions that are required to be satisfied, while seeking the protection of the services, as per the judgment of the Full Bench.

7. In view of the facts and circumstances, the following order is passed:

O R D E R

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 27.07.2016 passed by the respondent no.1 is set aside.
- (iii) The respondents 1 and 3 are directed to protect the services of the petitioner on the post of Assistant Teacher, on the condition that the petitioner should furnish an undertaking in this Court and before the respondents that the petitioner would not claim the benefits meant for "Naikada" Scheduled Tribe, in future.
- (iv) Rule is made absolute in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE