

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

**WRIT PETITION NO. 5276 OF 2015.**

Ku.Madanu d/o Sadvali Boge ..vs.. State of Mah. and ors.

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

Mr.N.C.Phadnis Advocate for the petitioner.  
Mrs.Taywade, AGP for respondent nos.1 and 2.  
Mr.A.Y.Kapgate, Advocate for respondent no.3.

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

**DATE : MARCH 08, 2016.**

1. At the outset, Advocate Phadnis seeks leave to join Chief Executive Officer, Zilla Parishad, Gondia as party respondent no.4. We find that Deputy Chief Executive Officer (Child Development) is already party respondent no.3 and Advocate Mr.Kapgate appears for that respondent. Hence, though Advocate Kapgate is opposing addition at this stage, we allow the same. Necessary amendment be carried out immediately.

2. Petitioner who is serving as Supervisor at Anganwadi of respondent no.3 - Zilla Parishad has approached this Court claiming protection in employment in view of Full Bench Judgment of this Court reported at **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone ..vs.. State of Mah. and ors.*). Advocate Shri Phadnis appearing for

petitioner points out that caste certificate was obtained immediately after petitioner reached aged of 21 years on the strength of old documents and ultimately the same has been invalidated on 11<sup>th</sup> of June, 2013. According to him, order of Scrutiny Committee does not find petitioner guilty of any fraud in procuring the caste certificate.

3. Advocate Mr.Kapgate appearing for respondent no.3 and added respondent no.4 submits that the petitioner has not approached this Court with clean hands. He has invited our attention to findings recorded in paragraph no.5 and paragraph nos.8 and 14 by the Scrutiny Committee to urge that those findings show that petitioner has procured caste certificate by tampering with old records. He has also relied upon observations in Full Bench judgment, mentioned supra, in paragraph nos.74, 67 and 38 to submit that in the light of said observations, petition is liable to be dismissed.

4. The perusal of records show that petitioner is born on 16<sup>th</sup> of May, 1963 and she got caste certificate on 26<sup>th</sup> of July, 1984. The petitioner has, for verification, relied upon certain old documents in which caste has been recorded as Mannewar – Scheduled Tribe. The oldest documents relied upon by the petitioner are of year 1901 – 1902 and Kotwal Panji/birth record dated 13<sup>th</sup> of November, 1936. Apart from that, '*Adhikar Abhilekh*' of 1960 in respect of her father and some documents of 1970, 1979 and 1981 were also pressed

into service.

5. The Scrutiny Committee has, in paragraph no.5, found that when original records pertaining to birth extracts of year 1936 were seen, there were certain interpolations and additions. The additions were obviously made later on because of difference in handwriting and ink, space constraint i.e. change in size of letters. When this was pointed out to petitioner and her brother whose caste claim was under scrutiny, both of them have accepted the position. Observations by Committee in paragraph no.8 are on same lines. The observations in paragraph no.14 are only conclusions and the Scrutiny Committee has concluded that the petitioner and her brother have taken undue advantage of similarity in nomenclature and have obtained the caste certificates in question fraudulently.

6. These findings or observations of the Scrutiny Committee do not show that the petitioner has played any fraud, interpolation. Tampering in 1936 documents is not found to be at the instance of the petitioner. Similarly, Scrutiny Committee or its Vigilance Cell has not found that relatives whose old documents were sought to be relied upon were not the relatives of the petitioner. Thus, petitioner relied upon old documents of her relatives and claimed to be belonging to caste Mannewar which is recognized as Scheduled Tribe. It appears that old documents supported

her claim. Similarly, only because some interpolation/tampering is found in old documents, that does not mean that the petitioner was instrumental for it. We therefore find no substance in contention raised by Advocate Mr.Kapgate that Scrutiny Committee has found petitioner guilty of playing fraud or for tampering the documents.

7. In view of this finding, it is not necessary for us to consider the paragraphs mentioned supra from the Full Bench judgment in the case of *Arun Vishwanath Sonone ..vs.. State of Mah. and ors.*

8. We, in this situation, find that the petitioner is entitled to protection in terms of Full Bench Judgment (supra). Accordingly, subject to petitioner filing an undertaking within a period of six weeks from today with respondent no.3 and also with the Registry of this Court that neither the petitioner nor her progeny shall claim benefit or status as person belonging to Mannewar – Scheduled Tribe, her employment shall remain protected.

Writ petition is thus partly allowed and disposed of.

No costs.

**JUDGE**

**JUDGE**

*Chute.*