

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

WRIT PETITION NO.5466 OF 2015.

Ku.Heerabai Shalikram Mundharikar

..VS..

The Joint Director, Directorate of Vocational Education and Training
Nagpur 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.P.R.Parsodkar, Advocate for the petitioner.
Mr.A.Z.Fulzele, AGP for respondent nos.1 to 3.

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

DATED : MAY 02, 2016.

Heard Advocate Shri Parsodkar for the
petitioner and learned AGP for respondent nos.1 to 3.

Advocate Shri Parsodkar, upon instructions,
states that the petitioner is interested only in claiming
protection of employment.

Learned AGP points out conduct of petitioner
which is apparent from the impugned order. According to
him, petitioner never cooperated with Scrutiny Committee
and always created problems.

Caste Certificate produced by petitioner is dated
2nd of July, 1992 and in it her caste has been mentioned as
'Halba' - Scheduled Tribe. Petitioner is born on 3rd of June,
1976. When she got certificate she was only 16 years old.
To support her caste claim she has produced some old
documents of her father and her uncle. In school records
their caste has been mentioned as 'Halba'. During
verification, authorities found that in records of father and
uncle caste has been mentioned as "Koshti". They also

found some old documents where caste has been mentioned as “Koshti”.

However, documents produced by petitioner are not found to be tampered with or interpolated. In any case in 1992 when petitioner was only 16 years old, it is apparent that on the basis of such material she cannot be found guilty of or privy to any fraud or forgery.

Perusal of impugned order dated 11th of September, 2015 passed by Scrutiny Committee reveals that when Vigilance authorities contacted petitioner or her brother on telephone with a view to conduct home enquiry on 14th of April, 2011 or 29/4/2011 proper information was not given. Elder members in the family were not made available. Scrutiny Committee was informed that they had gone out. The place to which they had gone and date of their likely return also not communicated.

The Scrutiny Committee has mentioned report of vigilance dated 13th of January, 2012. Vigilance Authorities have noted statement made by petitioner that her father left house on 3rd of January, 2012 without mentioning the place where he was going. It is further noted that on 19th of January, 2012 when they were called upon to remain present before Committee, nobody turned up.

All this conduct shows wrong attitude on part of petitioner. This attitude is adopted only to defeat the verification of caste claim.

Judgment of full Bench of this Court reported in **2015(1) Mh.L.J. 457** (*Arun Vishwanath Sonone ..vs.. State of Mah.*) holds that if employee, has joined employment on the basis of such certificate and documents are not shown to be tampered with or interpolated and there is no fraud

played while procuring employment, protection of services can be given. We, therefore, find petitioner entitled to protection of services.

However, in view of conduct noted above, we direct petitioner to pay costs of Rs.10,000/- (Rupees ten thousand only) to respondent no.3 – Committee. Costs shall be paid within period of four weeks from today.

Subject to payment of such costs and filing of an undertaking within four weeks by petitioner that neither she nor her progeny shall claim benefit as 'Halba' – Scheduled Tribe, we declare that petitioner is entitled to protection of her employment.

The undertaking shall be filed with Registry of this Court as also with the office of Scrutiny Committee and with employer.

If the undertaking or costs are not deposited, petitioner shall not be entitled to protection and be terminated.

Writ petition is thus partly allowed and disposed of.

JUDGE

JUDGE

Chute.