

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

WRIT PETITION NO.5934 OF 2015

KU. BINDU D/O MANOHAR DHORE (MRS. BINDU W/O NARENDRA DHAMAKKAR)

..vs..

UNION OF INDIA THR. ITS SECRETARY, NEW DELHI AND ORS

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

Court's or Judge's Order

Shri N.C. Phadnis, counsel for the petitioner.
Shri Rohit Deo, ASGI for the respondents.

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

DATED : APRIL 16, 2016.

1) Heard learned counsel Shri N.C. Phadnis for the petitioner, learned Assistant Solicitor General of India Shri Rohit Deo for the respondents.

2) Perused the petition, order passed by the Scrutiny Committee on 28.4.2008, order inflicting punishment of removal from services on 30.1.2015, and the reply-affidavit filed before this Court by the respondents.

3) The caste claim of the petitioner as belonging to "Halba" (*Scheduled Tribes*) has been invalidated on 28.4.2008. The petitioner seeks

protection of employment by placing reliance on the Full Bench judgment of this Court in the case of Arun Vishwanath Sonone .vs.. State of Maharashtra and others reported at 2015(1) Mh.L.J. 457.

4) After hearing learned counsel for the parties, we find that the petitioner is born on 26.3.1972 and she procured the caste certificate on 6.7.1985 when she was about thirteen years old. On the basis of that caste certificate, she has completed her education and joined employment with the respondents on 12.9.1997. She has been confirmed in employment on 16.9.1999.

5) As her caste claim was pending, the petitioner was required to approach this Court in Writ Petition No.3767 of 2007. That writ petition was disposed of on 24.8.2007 by directing the Committee to expedite adjudication and, in the meanwhile, her services were protected. The *interim* protection was to come to an end if the order of the Scrutiny Committee went against the petitioner.

6) Thereafter, the Scrutiny Committee has passed order on 28.4.2008. After that order, a charge-sheet was issued to the petitioner on 2.2.2009. The

departmental enquiry was conducted and the enquiry officer has submitted his report on 28.2.2014. Ultimately, vide order dated 30.1.2015, the petitioner has been removed from services. The appeal filed by her challenging removal from services is still pending.

7) It is not in dispute that neither the Scrutiny Committee, which has verified the caste claim of the petitioner, nor the enquiry officer has found the petitioner guilty of any fraud or interpolation in any document.

8) In this situation, we find that the petitioner is entitled to grant of protection in services in terms of the Full Bench judgment of this Court mentioned *supra*.

9) Learned counsel Shri Phadnis for the petitioner, during arguments, has fairly stated that the petitioner is ready and willing to accept reinstatement without backwages, if continuity is granted.

10) In view of this development, we direct the respondents to reinstate the petitioner back in services, within a period of three months from today. The same shall be without any wages from the date of

termination, till the date of reinstatement. However, the petitioner shall be entitled to grant of continuity and release of notional increments for the period during which she was out of employment.

11) The reinstatement shall be ordered if the petitioner, within a period of four weeks from today, submits an undertaking on affidavit to the respondents, to the Scrutiny Committee, and to the Registry of this Court that neither she nor her progeny shall claim the benefits or the status as “Halba” (*Scheduled Tribe*).

12) Subject to filing of such undertaking, the writ petition is partly allowed and disposed of with no order as to costs.

JUDGE

JUDGE

!! BRW !!

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