

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6062/2016

(Vandana w/o Gajanan Deshmukh (Ku. Vandana d/o Kamlakar Patil) vs. Assistant Commissioner, Amravati and others)

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

Court's or Judge's order

Mr. P.D. Meghe, Advocate for the petitioner
Mr. Amit Balpande, Asst. Govt. Pleader for Respondent Nos.1, & 5
Mr. A.S. Tiwari, Advocate for Respondent Nos. 3 & 4

**CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.**

DATED : 19th December, 2016.

Heard.

By this Writ Petition, the petitioner challenges the order of the respondent no.3, dated 19.9.2016 proposing to terminate the services of the petitioner for not producing the caste validity certificate. The petitioner also challenges the communications of the Assistant Commissioner, Backward Cell, directing the Management to prepare the roster as per the directions in the communications.

The petitioner was appointed as an Assistant Teacher by the respondent nos. 3 and 4 on 25.06.1996, on a post earmarked for the Scheduled Tribes. The petitioner claimed to belong to 'Koli' caste, that was included in the list of Scheduled Tribes, at the relevant time. The caste certificate of the petitioner was sent to the Scrutiny Committee for verification.

Subsequently, 'Koli' caste was removed from the list of Scheduled Tribes and was included in the list of Special Backward categories. The Scrutiny Committee validated the claim of the petitioner of belonging to 'Koli' caste, which is included in the Special Backward categories. Since the petitioner was appointed on a post earmarked for the Scheduled Tribes and since the petitioner has secured the caste validity certificate of 'Koli' caste, which is included in the Special Backward categories, the respondent nos. 3 and 4 have proposed to terminate the services of the petitioner, in view of the communication issued by the Assistant Commissioner of the Backward Class Cell directing the respondent nos. 3 and 4 to prepare the roster in accordance with the directives, in the said communication. Since the petitioner was appointed on the post earmarked for the Scheduled Tribes, on the basis of a caste certificate of 'Koli' caste, that was included in the Scheduled Tribes, the services of the petitioner need to be protected, as the petitioner was not at fault in applying for the post that was meant for the Scheduled Tribes, on the basis of the certificate that she belongs to 'Koli' caste.

Shri Meghe, the learned counsel for the petitioner submits that the services of the petitioner need to be protected as the petitioner is not responsible for removal of 'Koli' caste from the list of Scheduled Tribes and inclusion of the same in the list of Special Backward categories. It is stated that when the petitioner was appointed on the post of Assistant Teacher in the year 1996, 'Koli' caste was included in the Scheduled Tribes. It is stated that since 'Koli' caste was removed from the list of Scheduled Tribes subsequently, and was included in the Special

Backward categories, the services of the petitioner need to be protected as the Scrutiny Committee has held that the petitioner is successful in proving that she belongs to 'Koli' caste. It is stated that, in any case, the backlog of Scheduled Tribes candidates has been filled by the Management in the year 2006 and there is no backlog in the said category.

The learned Assistant Government Pleader and the learned counsel for the respondent nos.3 and 4 do not dispute that 'Koli' caste was initially included in the list of Scheduled Tribes and the said caste is now included in the list of the caste in the Special Backward category. It is stated that an appropriate order may be passed in the circumstances of the case.

It is clear from the statements recorded herein-above that when the petitioner applied and was appointed on the post of Assistant Teacher, 'Koli' caste was included in the Scheduled Tribes and while the petitioner was serving as an Assistant Teacher, 'Koli' caste was removed from the list of Scheduled Tribes and was included in the list of Special Backward categories. The petitioner cannot be blamed for having applied for the post of Assistant Teacher that was meant for the Scheduled Tribes. In the interregnum, the claim of the petitioner of belonging to 'Koli' caste was validated. If that be so, the petitioner cannot be blamed for the removal of 'Koli' caste from the list of Scheduled Tribes and the inclusion of the same in the list of Special Backward categories. In the circumstances of the case, the services of the petitioner need to be protected.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The impugned communication of the respondent nos.3 and 4 is quashed and set aside. The respondent no.3 and 4 are directed to protect the services of the petitioner as the backlog in the post of Scheduled Tribes category is filled.

Order accordingly. No costs.

JUDGE

JUDGE

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