

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6194/2016

(RAMA DEVIDAS DHANWADE @ RAMA ARUN WANKHEDE **VERSUS** STATE OF MAHARASHTRA &
 OTHERS)

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

Court's or Judge's orders

Shri M.V. Bute, counsel for the petitioner.
 Shri A.A. Madiwale, A.G.P. for the R-1 to 4.

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

DATE : NOVEMBER 18, 2016.

Shri Bute, the learned counsel for the petitioner, submitted that the petitioner has given up her caste claim and is therefore desirous of deleting Prayer Clause (a) from the writ petition. It is stated that the grievance of the petitioner would stand redressed if her services are protected in view of the judgment of the Full Bench.

We permit the petitioner to delete Prayer Clause (a).

The amendment should be carried out forthwith.

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By this writ petition, the petitioner seeks a direction against the respondent nos.2 and 3 to protect the services of the petitioner in view of the judgment of the Full Bench.

The petitioner was appointed as a Nurse by the respondent nos.2 and 3 on 14.04.1996 on a post earmarked for the Scheduled Tribes. The petitioner claimed to belong to Koli Mahadeo Scheduled Tribe and the caste claim of the petitioner was referred to the scrutiny committee for verification. The scrutiny committee has invalidated the caste claim of the petitioner by the order dated 29.08.2016. The petitioner had initially challenged the order of the scrutiny committee but, has given up his caste claim and is only seeking the protection of his services.

Shri Bute, the learned counsel for the petitioner, states that both the conditions that are required to be satisfied while seeking the protection of services, stand satisfied in case of the petitioner, inasmuch as the petitioner was appointed on

14.04.1996, i.e. before the cut-off date and there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently secured the benefits meant for the Koli Mahadeo Scheduled Tribe. It is stated that the 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 and the affinity test.

Shri Madiwale, the learned Assistant Government Pleader appearing on behalf of the respondents, does not dispute the position of law as laid down by the Full Bench. It is fairly admitted that there is no observation in the order of the scrutiny committee that the petitioner had fraudulently secured the benefits meant for the Koli Mahadeo Scheduled tribe. The learned Assistant Government Pleader states that an appropriate order could be passed in the circumstances of the case.

On hearing the learned counsel for the parties and on a perusal of the judgment of the Full Bench, it appears that the services of the petitioner are required to be protected in view of the judgment of the Full Bench. The petitioner was appointed as a Nurse in the year 1996 and there is no observation in the order of the scrutiny committee that the petitioner has fraudulently secured the benefits meant for the Koli Mahadeo Scheduled Tribe. It appears that the caste claim of the petitioner was invalidated as the petitioner could not prove the same on the basis of the material produced by her before the scrutiny committee. It is rightly stated on behalf of the petitioner that both the conditions that are required to be satisfied while seeking the protection of services, stand satisfied in case of the petitioner.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent nos.2 and 3 are directed to protect the services of the petitioner on the post of Nurse on the condition that the petitioner furnishes an undertaking in this Court and before the respondent nos.2 and 3 that the petitioner would not claim the benefits meant for the Koli Mahadeo Scheduled Tribe, in future.

Order accordingly. No costs.

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