

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH AT NAGPURWRIT PETITION NO.6462 OF 2016

[Ku. Yogita Bhagwan Bharadbhunje .vs. State of Maharashtra and others]

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

Court's or Judge's orders

Shri Narendra Thombre, counsel for the petitioner,
 Shri A.M. Balpande, AGP for respondent nos.1 and 2.

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

DATED : DECEMBER 01, 2016.

By this writ petition, the petitioner seeks the protection of her services in view of the judgment of the full bench, reported in 2015 (1) Mh.L.J. 457 (Arun s/o Vishwanath Sonone .vs. State of Maharashtra and others).

The petitioner was appointed on the post of Lower Division Clerk that was reserved for the Scheduled Tribes and physically challenged on 1.5.2000. The claim of the petitioner of belonging to Halba Scheduled Tribe was referred to the Scrutiny Committee for verification. The Scrutiny Committee has invalidated the claim of the petitioner by the order dated 20.10.2016. The petitioner has not challenged the order of the Scrutiny Committee and by giving up her caste claim, has only sought the protection of her services in view of the judgment of the full bench.

Shri Thombre, the learned counsel for the petitioner, submitted that the petitioner would be entitled to the protection of her services on the post of Lower Division Clerk as the petitioner was appointed before the cut off date on 1.5.2000 and there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently secured the benefits meant for the Halba Scheduled Tribe. It is stated that since the petitioner has given up her caste claim, the services of the

petitioner are required to be protected, as she was appointed before the cut off date and no adverse observation is made against the petitioner in respect of fraud, in the order of the Scrutiny Committee.

Shri Balpande, the learned Assistant Government Pleader appearing for the respondent nos.1 and 2 does not dispute the position of law, as laid down in the judgment of the full bench. It is admitted that the petitioner was appointed 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 Halba Scheduled Tribe.

Since both the conditions that are required to be satisfied while seeking the protection of the services in view of the judgment of the full bench stand satisfied in the case of the petitioner, the services of the petitioner are required to be protected. The petitioner was appointed 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 Halba Scheduled Tribe.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent no.3 is directed to protect the services of the petitioner on the post of Lower Division Clerk on the condition that the petitioner submits an undertaking in this Court and before the respondent no.3 within four weeks that the petitioner would not seek the benefits meant for the Halba Scheduled Tribe, in future. The petitioner should not be deprived of the benefits that are meant for the physically challenged, as per the rules, only because her caste claim is invalidated. Order accordingly. No costs.

JUDGE

JUDGE