

disposal.

3. Mr. Jadhavar, the learned counsel for the petitioner submits that the petitioner was appointed in the year 1996 with respondent no.3 as a driver from the reserved category. The caste claim of the petitioner was forwarded to the Committee. Before the committee could invalidate the caste claim, the petitioner was terminated from service on 19.12.2016. The learned counsel submits that subsequently the committee invalidated the caste claim of the petitioner. The petitioner claims to be belonging to Tamboli, O.B.C. According to the learned counsel, there is no contra evidence on record. The documents on record clearly establish that the petitioner belongs to Tamobli, O.B.C. Said aspect has not been considered. The learned counsel further submits that even old record of 1954-55 i.e. Khasra Pahani Patrak shows caste recorded as Tamboli, and other clinching evidence has not been considered.

4. The learned counsel, in the alternative submits that the petitioner is appointed in the year 1996. There is no finding of fraud, misrepresentation or forgery. As such the petitioner would be entitled

for protection in service.

5. The learned AGP submits that there is no document substantiating the case of the petitioner. In Kharsra Pahani Patrak, the word "Tamboli" is inserted subsequently. The Committee has rightly passed the order.

6. Mr. Bagul, the learned counsel for respondent no.3 submits that the petitioner was appointed from the reserved category, considering the fact that the caste claim of the petitioner is invalidated, the action of terminating him from service is rightly taken.

7. We have considered the submissions canvassed by the learned counsel for the respective parties. We have also gone through the judgment delivered by the committee.

8. On perusal of the judgment, it is manifest that except the school record of the petitioner and his brother, there is no document showing that the petitioner belongs to Tamboli, O.B.C. Kharasta Pahani Patrak which is old document and relied, shows that the ward 'Tamboli' has been inserted subsequently.

The said document, on the contrary, disprove the case of the petitioner.

9. In the light of above, the judgment of the Committee invalidating the caste claim of the petitioner is required to be upheld.

10. It is not disputed that petitioner was appointed in the year 1996 as a driver. The petitioner could not prove his caste because of lack of evidence. It cannot be said that caste certificate obtained by the petitioner was obtained by fraud or misrepresentation.

11. In view of the above, the petitioner would be entitled for the benefit of the judgment of Full Bench of this Court in case of **Arun Vishwanath Sonone Vs. The State of Maharashtra and others** reported in **2015 (1) MLJ 457**.

12. Considering the above, we pass following order.

O R D E R

- i. The judgment of the committee invalidating the caste claim of the petitioner is upheld.
- ii. Respondent no.3 shall reinstate the petitioner in service on his original post, however, the petitioner will not be entitled for back wages

from the date of termination till reinstatement.

iii. Respondent no.3 shall reinstate the petitioner within one week. The period from termination till reinstatement shall be considered for the purpose of continuity in service and for further benefits.

iv. Henceforth the petitioner shall not be entitled to take benefit of the reservation. Entry of this order shall be taken in the service book of the petitioner.

13. Rule is accordingly made partly absolute. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC