

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

WRIT PETITION NO. 1617 OF 2006

Dnyanoba so Baburao Anantre ...Petitioner

VERSUS

The State of Maharashtra
and others

...Respondents

.....
Shri A.S.Bayas, advocate h/f
Shri G.S.Patil, advocate for the petitioner
Smt. M.A.Deshpande, A.G.P. for respondents 1 to 4
Shri D.M.Mane, advocate for respondents 5 and 6
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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 6th FEBRUARY, 2017

O R D E R :

The petitioner is appointed as an Assistant Teacher with respondent no.6 on 16.10.1998 from the reserved category i.e. scheduled tribe category. The tribe claim of the petitioner was referred to the Committee. The Committee invalidated the tribe claim of the petitioner. Aggrieved thereby the present Writ Petition.

2. Mr. Bayas, learned counsel for the petitioner states that his near relative namely Tavare Popat Udhav has been given validity as Koli Mahadev scheduled tribe. The learned counsel further submits that the school record of the petitioner and his relatives consistently records the caste as Mahadev Koli. Even the vigilance has conducted the inquiry and the petitioner has properly given the traits of Mahadev Koli scheduled tribe. There is no adverse/contra entry against the petitioner. The learned counsel submits that the father of the petitioner is illiterate. According to the learned counsel, the affidavit is also filed by Ashok Abasaheb Anantre, which proves pe-degree. According to the learned counsel, in view of the consistent entry in the authentic document as Mahadev Koli there was no impediment for the Committee to validate the tribe claim of the petitioner. The learned counsel, in the alternate, submits that the petitioner has been appointed in the year 2000. As such, his services be protected.

3. Mrs. Deshpande, learned A.G.P. submits that the father of the petitioner has made a statement that he does not have any brother and relatives. The validity produced on record is of a relative from maternal side. In Khasara patrak in respect of the land owned by the grand-father of the petitioner initially the caste was recorded as 'Koli' and subsequently the word 'Mahadev' was added by the Girdhawar. Even inquiry was conducted and petitioner could not pass the affinity test.

4. We have considered the submissions canvassed by the learned counsel for respective parties. We have also gone through the documents filed on record and the vigilance report.

5. Except the school record of the petitioner, there is no other document supporting the claim of the petitioner. Copy of the khasara patrak, which is an old document of the year 1954-55 is produced on record. The record specifically

states that initially caste of the grand-father of the petitioner was recorded as 'Koli' and thereafter word 'Mahadev' has been added by Girdhawar. It would be seen that grand-father of the petitioner claims himself to be Koli and not Mahadev Koli. Even the petitioner could not pass his affinity test. Considering these aspects, the Committee has not committed any error in negating the tribe claim of the petitioner. The said judgment deserves to be upheld. The petitioner is appointed in the year 1998. There is no finding of fraud or misrepresentation on the part of the petitioner before the Committee. In view of the judgment of the Full Bench of this Court in the case of **Arun Vishwanath Sonawane vs State of Maharashtra** reported in **2015(1) Mh.L.J.457**, services of the petitioner can be protected. In view of the above, we pass following order.

6. The judgment of the Committee is upheld. However, the respondent/institution shall not take

any adverse action against the petitioner only on the ground that his caste claim is invalidated. However, the petitioner will not be entitled for promotional benefits from the reserved category of scheduled tribe. The petitioner shall not take benefit of reservation henceforth in service or any walk of the life. The entry of this order be taken in the service book of the petitioner.

7. Writ Petition accordingly disposed of. No costs.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)

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