

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

WRIT PETITION NO. 4353 OF 2002

Sonaji S/o Haribhau Dandge,
Age : 43 Years, Occu. : Service,
R/o PO Surangali, Tq. Bhokardan,
District Jalna.

.. Petitioner

Versus

1. The State of Maharashtra,
2. The Scheduled Tribe Caste Certificate
Verification Committee,
Through its Chairman/Director,
Aurangabad Division, Aurangabad.
3. The Taluka Executive Magistrate,
Bhokardan, District Jalna.
4. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Jalna.

5. The Collector,
Collectorate, Jalna.

.. Respondents

Shri Madhur A. Golegaonkar, Advocate h/f Shri Anil S.
Golegaonkar, Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 3 & 5.
Shri U. B. Shriram, Advocate h/f Shri D. S. Bagul, Advocate for
the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 19TH JANUARY, 2017.

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. The tribe claim of the petitioner as belonging to Malhar Koli (Scheduled Tribe) has been invalidated. Aggrieved thereby present petition.

2. Mr. Golegaonkar, the learned counsel for the petitioner submits that, ample evidence is produced on record to substantiate the tribe of the petitioner as belonging to Malhar Koli (S.T.). According to the learned counsel, relatives of the petitioner are consistently granted tribe certificates as belonging to Malhar Koli. The learned counsel submits that, even vigilance report is not against the petitioner. The learned counsel submits that, the Committee has miserably failed to appreciate the evidence in its proper perspective. The learned counsel in the alternate submits that, in case judgment of the Committee is upheld, the services of the petitioner shall be protected. The petitioner was appointed in the year 1994 as a driver. The tribe claim of the petitioner is rejected. The learned counsel further submits that, the petitioner was subsequently made permanent in the year 1995. The petitioner is terminated from the service on 30th July, 2002. After invalidation of the tribe claim of the petitioner, immediately the petitioner filed the present writ petition.

3. Mrs. Deshpande, the learned Additional Government Pleader submits that, there is no iota of evidence of the petitioner as belonging to Malhar Koli (S.T.). Even school record does not support the case of the petitioner. The Committee has rightly passed the order.

4. Mr. Shriram, the learned counsel holding for Mr. D. S. Bagul, the learned counsel for the respondent No. 4 submits that, the petitioner was appointed from reserved category i. e. Scheduled Tribe category. On his claim being invalidated, the petitioner cannot seek reinstatement. The post of driver from S. T. category is vacant.

5. We have considered the submissions canvassed by the learned counsel for respective parties. So also gone through the judgment of the Committee and documents produced on record.

6. Perusal of the judgment of the Committee, it transpires that the school record of the petitioner shows the caste being recorded as Koli. The said document is basic document. The same is a contra evidence on record. In the school record of his brother and sister the word Malhar is said to be added subsequently and is in different ink.

7. The committee has appreciated the evidence in a plausible

manner. It has also come on record in the vigilance report that the petitioner and his family do not have basic knowledge of the traits, characteristics, customs and culture, etc. of the Malhar Koli (S.T.).

8. In view of the aforesaid facts, judgment of the Committee cannot be faulted with and the same is required to be upheld and is hereby upheld.

9. The judgment on record does not suggest that the petitioner had obtained the tribe certificate by playing fraud or misrepresentation. In such a case the judgment of the Full Bench of this Court in a case of **Arun Sonone Vs. State of Maharashtra** reported in *2015(1) Mh.L.J. 457* would squarely apply. The petitioner would be entitled for protection in service, as the petitioner is appointed in the year 1994. Considering the above we pass following order.

O R D E R

- A. The judgment of the Scrutiny Committee is upheld.
- B. The respondent No. 4/M.S.R.T.C. shall reinstate the petitioner on his original post (if the petitioner otherwise possesses the necessary eligibilities). The petitioner on

reinstatement shall be given continuity in service.

However, the petitioner will not be entitled for the backwages from the date of termination till reinstatement.

- C. The respondent No. 4 shall reinstate the petitioner on or before 01.02.2017.
- D. The petitioner henceforth shall not claim benefit of his tribe certificate of Malhar Koli (S.T.). The said certificate stands cancelled.
- E. The entry of this order shall be taken in the service book of the petitioner.
- F. Rule accordingly is partly made absolute in above terms.
No costs.

Sd/-

[K. L. WADANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]