

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.3239 OF 2016**

Dilip S/o Khumansing Thakur,
Age 45 years, Occ.Service
(as Junior Clerk in
Divisional Jt.Director
Agricultural Office at Nasik),
R/o Flat No.7-A, "Bhawani Sadan",
Housing Society, Sai Nagar,
Nasik, Dist.Nasik. ... Petitioner.

Versus

1. The State of Maharashtra,
Department of Agricultural,
Animal Husbandary, Dairy
Development And Fisheries
Department through its
Secretary, Mantralaya,
Mumbai-32.

2. The Committee for Scrutiny
and Verification of Tribe
Claims, Nandurbar Division,
Nandurbar, through its Member
Secretary.

3. The Divisional Joint
Director of Agricultural,
Nasik Division, Near Old
Revenue Commissioner Office,
Nasik Road, Nasik, Dist.Nasik. ... Respondents.

...
Mr.A.H.Koralkar, advocate for the petitioner.
Mr.P.S.Patil, Additional Government Pleader for
the State.

...

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

Date : 08.02.2017.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.

3. The petitioner was appointed with Respondent No.3 on 14.7.1986 as Clerk-cum-typist. In 1998, the petitioner is promoted as a Junior Clerk. The tribe claim of the petitioner as belonging to Thakur Scheduled Tribe is invalidated.

4. Mr.Koralkar, learned counsel for the petitioner states that the Committee failed to consider the documentary evidence produced on record in its correct perspective. The validity in favour of near relative has not been considered. The affinity test has not been properly considered. The petitioner by the

documentary evidence has proved his tribe certificate. According to the learned counsel, the validity certificate is issued in favour of near relative. The same is also not considered. In alternate, the learned counsel submits that the petitioner be protected in service.

5. Mr.Patil, learned Additional Government Pleader states that there are contra evidence on record. The petitioner has failed in the affinity test. The validity certificates are not in respect of the near relatives.

6. We have considered the submissions. Voluminous documentary evidence is found by the Vigilance, in which the caste of near relatives of the petitioner is mentioned as Brahmabhat, Hindu Brahmabhat. This would be a contra evidence. The old record does not support the case of the petitioner. The petitioner is also failed in affinity test.

7. Considering the aforesaid aspect, no error has been committed by the Committee in

invalidating the tribe claim of the petitioner. The Judgment requires to be upheld.

8. The petitioner has been appointed in the year 1986 and is continuously working. The last promotion has been given to the petitioner in the year 1998 and from 2001, the petitioner has not been promoted. In the judgment of the Committee, finding of fraud or misrepresentation does not appear. In view of the judgment of the Full Bench of this Court in the case of **"Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others"** reported in **2015(1) Mh.L.J. 457**, the services of the petitioner can be protected.

9. In light of the above, we pass the following order :

a) The judgment of the Committee invalidating the tribe claim of the petitioner is upheld.

b) The services of the petitioner are protected. The Respondent No.3 shall not take any adverse action against the petitioner only on the ground that his tribe claim is invalidated.

However, the petitioner shall not be entitled for the benefit of reservation in service or in any walk of life. The entry of this order shall be taken in the service book of the petitioner.

c) Rule made absolute in above terms. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp3239.16

