

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

WRIT PETITION NO.3679 OF 2015

Shaikh Nazima Allauddin .. **Petitioner**
Age 42 years, Occu: Assistant
Teacher, R/o Near ITI, Pathri
Road, Manwat, Taluka Manwat,
District Parbhani.

VERSUS

1. The State of Maharashtra
Through Secretary,
Education Department, Mantralaya,
Mumbai-32
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
3. The Education officer (Secondary)
Zilla Parishad, Parbhani
4. Swami Vevekanand Shikshan Prasarak
Mandal, Pathri, Through its
President Munjajirao Bhale Patil,
R/o Bhalegalli, Pathri Tq. Patrhi
Dist. Parbhani

5. Head Mistress .. **Respondents**
Smt. Saraswatibai Bhale Patil
Vidyalaya
Manwat, Taluka Manwat Dist.
Parbhani.

Mr. Mrs. A. N. Ansari, Advocate for the petitioner,
Mr. Y. G. Gujrati, A. G. P. for the State.
Mr. T. G. Gaikwad, Advocate for respondent No.4
Mr. M. P.Tripathi, Advocate for respondent No.5

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

DATE : 13th February, 2017

ORAL JUDGMENT :

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.
3. Mrs. Ansari, the learned counsel for the petitioner states that the petitioner was appointed as Assistant Teacher w.e.f. 10.08.98 from ST Category. The petitioner was having caste certificate of Raj Community which was listed as Scheduled Tribe at Sr. No.18. According to the learned counsel, for the first time in the year 2012, the petitioner was asked to get the caste certificate verified. The proposal was submitted, however, the same is invalidated without notice to the petitioner and without hearing the petitioner on the ground that Executive Magistrate Parbhani did not have the authority to issue the said certificate. The learned counsel submits that thereafter in the year 2013, the Raj Community is notified in Nomadic Tribe (NT) Category. Caste certificate of the petitioner belonging to NT Category is validated by the committee and validity certificate is issued on 20th January, 2014. The learned counsel

submits that services of the petitioner be protected.

4. We have heard the learned AGP and the learned counsel appearing for respondent Nos. 4 and 5.

5. It is not disputed that the petitioner is appointed as an Assistant Teacher on 10.08.1998 from reserved category. The claim of the petitioner was referred to the committee, however, it appears that the same was rejected on the ground that the Executive Magistrate did not have the authority. The said order was passed without notice to the petitioner and without hearing the petitioner. Thereafter, the petitioner's claim as belonging to Raj (2) Community, N. T. is validated. The validity certificate was issued on 20th January 2014.

6. It would appear that as per the notification, the said caste Raj (2) comes under N.T. category and the said certificate is validated on 20.1.2014. Even otherwise, there are no findings of fraud or misrepresentation in the order of the committee, invalidating the claim of the petitioner as belonging to Scheduled Tribe. The petitioner was appointed in the year 1998. In view 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** the services of the petitioner can be protected.

7. In the light of above we pass the following order:

1. In view of the fact that the petitioner has got certificate of Raj(2) N.T, it is not necessary to deal with the judgment of the committee dated 31.07.2014. The services of the petitioner are protected and no adverse action be taken against the petitioner on the ground that the tribe claim of the petitioner has been invalidated.

2. Rule is accordingly made partly absolute in the above terms. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC