

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

**WRIT PETITION NO.3622 OF 2012
AND
CIVIL APPLICATION NO.2933 OF 2017**

Smt. Suman d/o. Ramchandra Thakur,
Age : 56 years, Occ. Service,
r/o. Phurus (Khed),
Tq. and Dist. Ratnagiri ..Petitioner

Vs.

The State of Maharashtra,
through Secretary,
Tribal Development Department,
Mumbai – 32 and ors. ..Respondents

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Mr.M.S.Deshmukh, Advocate for petitioner
Mr.M.B.Bharaswadkar, AGP for respondent no.1
Mr.A.R.Salve, Advocate for respondent no.2
Mr.A.A.Jagatkar, Advocate for respondent nos.3 and 4

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**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : MARCH 24, 2017

ORDER :

We have heard Mr.Deshmukh, learned Counsel
for the petitioner, the learned AGP for respondent
no.1 and Mr.Jagatkar, learned Counsel for respondent
nos.3 and 4.

2. Mr.Deshmukh, learned Counsel for the petitioner submits that the petitioner would not assail the order of the Committee. However, he prays that the service/retiral benefits may be given to the petitioner. He further submits that the petitioner has never taken benefit of reservation and she was appointed in open category.

3. Mr.Jagatkar, learned Counsel for respondent nos.3 and 4, on instructions, states that the petitioner was appointed from Open Category and was not given benefit of reservation.

4. It appears that in the impugned judgment passed by the Committee, there is no finding of any fraud or misrepresentation on the part of the petitioner. As such, in view of the judgment of the Full Bench of this Court in the case of **Arun s/o. Vishwanath Sonone Vs. The State of Maharashtra and ors., 2015(1)Mh.L.J. 457**, the petitioner would be entitled for protection.

5. Considering the above, we pass following order :-

(i) The impugned judgment passed by the Committee invalidating the tribe claim of the petitioner is upheld.

(ii) As the petitioner was appointed from Open Category and has not taken benefits of reservation, the petitioner shall be entitled for all the service benefits/retiral benefits. The respondents concerned shall disburse such benefits to the petitioners expeditiously.

(iii) With these directions, the Writ Petition stands disposed of.

(iv) In view of disposal of the Writ Petition, the Civil Application also stands disposed of.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

kbp