

Bhagwan s/o Sambhanna ... **Petitioner**
Bontawar, Age 44 years, Ocu:
Private Service, R/o Javarla,
Taluka Kinwat, Dist. Nanded,

1. The State of Maharashtra
Through Tribal Development
Department, Mantralaya,
Mumbai.

2. The Member Secretary
Scheduled Tribe Caste
Certificate Verification
Committee, Aurangabad
Division, aurangabad.

5. The Tahsildar, Kinwat, ... **Respondents**
Taluka Kinwat, Dist. Nanded

Mr. S. S. Gangakhedkar, Advocate for Petitioner
Mr. V. M. Kangne, AGP for Respondents

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 6th April, 2017

JUDGMENT (Per R. M. Borde, J.):

1. Rule. Rule made returnable forthwith.
2. With the consent of the parties, taken up for final disposal.
3. At the request of the petitioner, names of respondent Nos. 3 and 4 shall stand deleted.

4. The petitioner was appointed as Assistant Teacher in the year 1994 in Yashodabai Jogi School as against the seat reserved for S.T. Category. At the time of securing employment, the petitioner tendered Tribe Certificate issued by the competent authority, certifying that he belongs to 'Mannervarlu' Scheduled Tribe. The Tribe certificate of the petitioner was referred for verification to Respondent No.2 Committee. The petitioner is continued in employment till this date.

5. On 18.05.2013, the State Government issued a Resolution, issuing guidelines in respect of taking steps/action in the event of invalidation of caste certificate of the employees appointed against reserved vacancies. The State Government has protected the employment of employees inducted prior to 15.06.1995. By virtue of Resolution dated 18th May, 2013, option is given to the employees to give up claim as belonging to specified reserved category and secure a certificate of caste/or tribe to which the employee belongs and submit such certificate for verification to the scrutiny committee. The petitioner, acting upon the Government Resolution,

made representation to Respondent No.2 Scrutiny Committee informing withdrawal of his claim as belonging to Mannervarlu, Scheduled Tribe. It was further informed by the petitioner to the Scrutiny Committee that as he has secured certificate as belonging to Munurwar, Special Backward Category.

6. The petitioner, after securing the certificate as belonging to Munurwar, Special Backward Category, submitted the same for verification and on consideration of the evidence placed on record by the petitioner, the competent scrutiny committee validated the certificate issued to the petitioner as belonging to Munurwar, Special Backward Category on 18.12.2013. Respondent No.2 Scrutiny committee, however, insptie of communication issued by the petitioner withdrawing his claim as belonging to Mannervarlu, Scheduled Tribe, proceeded to decide the proposal for validation of tribe certificate which was earlier forwarded by the petitioner and recorded finding that certificate has been obtained by unlawful means and has further directed registration of offence against the petitioner. The order apart from being violative of principles of natural justice, it was wholly

unnecessary for the Scrutiny Committee to take such decision since the petitioner has withdrawn his claim based on the certificate issued to him in 1992. The petitioner, apart from withdrawing the claim as belonging to Mannervarlu, Scheduled Tribe, has also obtained the certificate as belonging to Munurwar (SBC category) and the competent scrutiny committee has validated the subsequent certificate issued to the petitioner.

7. The petitioner has taken steps as per the policy declared by the State Government under the Government Resolution dated 18.05.2013. The order passed by the Committee dated 22.03.2017 is illegal and deserves to be quashed and set aside, except the observation that certificate issued to the petitioner on 17.08.1992 as belonging to Mannervarlu, Scheduled Tribe stands cancelled and confiscated. The order of confiscation/cancellation of tribe certificate ought to have been issued by the Scrutiny Committee at the request of the petitioner, without entering into the merits of the case and ought not have decided the matter without observing principles of natural justice.

8. Save and except as referred above, the order dated 22.03.2017 passed by the Respondent No.2 Caste Scrutiny Committee stands quashed and set aside. Rule made absolute to the extent as above.

9. In the facts and circumstances of the case, there shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC