

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

43 WRIT PETITION NO. 11095 OF 2016

SANDIP SHRIKANT AHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. Shirrurkar K T
AGP for Respondents 1 and 2 AGP: Mr. Y. G. Gujrati
Advocate for Respondent No.4 : Mrs. Chaitali Kutti-Chaudhari

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

DATE : 17th January, 2017

ORDER:

1. The petitioner is terminated on 26.10.2016 on the ground of non submission of validity certificate. Mr. Shirrurkar, the learned counsel for the petitioner submits that the order of termination is issued without notice to the petitioner. Validation proceeding is still pending. The petitioner is appointed after following due procedure of law. In spite of representation to the Committee, the petitioner is not served with the report of the Vigilance Cell. Pending the decision by the Committee in the validation proceeding, the petitioner be reinstated.

2. The learned AGP appearing for respondents 1 and 2 submits that the petitioner is not cooperating in the disposal of the proceeding. The Vigilance Cell report

is received on 30.09.2012. In spite of intimating to the petitioner and issuing notice to the petitioner, the petitioner is not remaining present.

3. The petitioner, it appears that, is appointed in the year 2012 from the reserved category as a Pump Operator. The petitioner is claiming to belong to Thakur, Scheduled Tribe. In normal course, this Court would protect services of the petitioner till disposal of the validation proceedings. However, considering the affidavit filed by the Committee, it is manifest that the petitioner is not cooperating in the disposal of the validation proceedings. Vigilance Cell report has been submitted to the Committee on 30.09.2012. The claim of the petitioner was kept for hearing on 24.06.2015, 09.07.2015 but the petitioner did not appear. As per affidavit filed, the next date was also fixed on 2nd December, 2016. The petitioner is supposed to be aware of the said hearing as in the affidavit only the date of hearing was stated. The Committee has stated that it will decide the proceeding within four months. We accept the said statement made by the Committee that it will decide the proceedings expeditiously, upon cooperation of the petitioner.

4. Till the validation proceedings are decided, the respondent Nos. 3 and 4 shall not fill any post on which the petitioner was working. In case validation proceeding is decided in favour of the petitioner, then respondent Nos. 3 and 4 shall reinstate the petitioner. In case the tribe claim of the petitioner is invalidated, then the termination order would stand. With this observation, writ petition disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC