

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 531 OF 2017

Arun Hiranman Navasare	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. R. K. Mendadkar for the petitioner.

Mr. P. G. Sawant - AGP for respondent
nos. 1 and 2.

Mr. Sandeep V. Marne for respondent
no.3.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- FEBRUARY 15, 2017

P.C. :-

1. After this writ petition was argued for some time and we were disinclined to interfere with the order passed by the scrutiny committee dated 9th December, 2016, on instructions, Mr.Mendadkar submitted that the petitioner would give up his claim as belonging to the Scheduled Tribe, namely, Hindu Tokare Koli. He would submit that since the committee has rendered a finding that the petitioner and his parents, namely, his father have been identified and known to be belonging to Koli and that now being designated as Special Backward Class, the benefit of

Government Resolution dated 15th June, 1995 be extended and the services of the petitioner with respondent no. 3 be protected.

2. This request is made by contending that the petitioner joined the services of the third respondent-Navi Mumbai Municipal Corporation in 1994. His family and progeny will suffer in the event his services are not protected. He joined the services on 21st July, 1994 and has an unblemished service record, save and except not furnishing a caste validity certificate. It is also submitted, on instructions, that the petitioner and his progeny will not claim any benefit of Hindu Tokare Koli Scheduled Tribe and would accept the verdict of the committee. That would bind not only the petitioner but his progeny as well.

3. On this limited point, we have heard Mr. Mendadkar appearing for the petitioner and learned AGP Mr. Sawant appearing for respondent nos. 1 and 2 and Mr. Marne learned counsel appearing for respondent no. 3. Both, Mr. Sawant and Mr. Marne contend that the consequences of invalidation of the caste/tribe certificate must follow. The law is very clear and the Act 23 of 2001 leaves no discretion to the employer or the State in that regard. It is in these circumstances, it is submitted by them that this court should not grant any relief to the petitioner.

4. Having heard the learned counsel on this point and perusing the Government Resolution dated 15th June, 1995, what we find is that the petitioner having joined the services on 21st July, 1994 and being in service on the date of issuance of this Government Resolution so also bearing in mind the caste/tribe listed at Sr. No. 4, we are of the opinion that the services of the petitioner can be protected. The petitioner would be known as belonging to Koli Special Backward Class category. This is only restricted to the case of the petitioner and he being in service of the municipal corporation, which service has not been disrupted that we direct that the same shall not be terminated on the ground that the petitioner has failed to obtain caste/tribe validity certificate as belonging to Hindu Tokare Koli Schedule Tribe. The petitioner, on the strength of this Government Resolution, shall be continued in service and till the age of superannuation, provided he complies with the other requirements of the rules and regulations. This does not prevent respondent no. 3 from taking any disciplinary action against the petitioner for any misconduct under the service rules.

5. The writ petition is disposed of in the above terms.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)