

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3560 OF 2017

Devanand Baban Mekhale ..Petitioner

Vs.

State of Maharashtra and Others ..Respondents

Mr. R. K. Mendadkar, for the Petitioner.

Mrs. M. S. Bane, 'B' Panel Counsel, for Respondent Nos.1 and 2.

Mr. Mandar Limaye, for Respondent No.3.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.
DATE :- MARCH 24, 2017.

P. C.:

The Writ Petitioner has been terminated from services only on the ground that he has failed to produce a caste validity certificate.

2 On 18th March, 2017, a common order was passed in the case of eight candidates which includes the Petitioner.

3 The benefit of the order that we propose to pass shall not be available to other candidates.

4 The Petitioner claims that having been appointed in the establishment of the Thane Municipal Corporation and particularly in the Fire Brigade as a Driver on 12th January, 2016 against the reserved seat, Condition No.2 of his appointment order at page 24 says that the Petitioner must produce the validity certificate within a period of six months from the date of his resumption of duties, failing which his services would be terminated.

5 The Petitioner says that he has no control over the proceedings of the committee. It is further alleged that immediately upon joining duties, he forwarded certificate of caste based on which he was recruited and appointed. That was forwarded through the employer to the competent Scrutiny Committee but till date it has failed to consider the issue of its genuineness and bonafides. The claim has till not

been scrutinized and verified by the Scrutiny Committee. In the meanwhile, by the impugned notice, the termination has come into effect.

6 The only ground on which the Corporation has opposed this Petition is that the Petitioner was informed throughout that in the event the Scrutiny Committee has not completed its task at-least he must produce a proof of his having forwarded the certificate in time. That also was not produced, is the contention of Mr. Limaye.

7 After having heard both sides, perusing the Petition and the Annexures thereto, we are of the firm opinion that if the Committee has not completed its task and within the time stipulated by law, in the peculiar facts of this case, the Petitioner cannot be visited with extreme consequences, particularly of termination of service. The termination is only on the ground that he has failed to produce his validity certificate. Therefore, in facts peculiar to this case and without this order being treated as a

precedent, we direct that the Petitioner's services be continued till the time the scrutiny is completed and an order is passed by the Scrutiny Committee. The services shall be continued for a further period of two weeks, in the event the Committee's order is adverse to the Petitioner is communicated to him. We clarify that this order is passed only because the Petitioner failed to produce the validity certificate but any disciplinary action shall not be influenced by this direction. Let the Competent Authority pass a formal order continuing the Petitioner's services so that there is no interruption therein and for the purposes of computation of his terminal benefits. The Writ Petition is allowed. The order of termination is set aside.

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