

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

WRIT PETITION NO. 4436 OF 2013

Shankar Pundlikrao Dande ... Petitioner
Vs
1. M.S.R.T. Corpn. & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4437 OF 2013**

Shivram Sadashiv Tarale ... Petitioner
Vs
1. M.S.R.T. Corpn. & Ors. ... Respondents

Mr. P.J. Thorat with Mr. M.V. Savant for the Petitioners in both writ petitions.

Mr. G.S. Hegde with Mr. L.C. Lokesh for the Respondent Nos.1 and 2 in both writ petitions.

Ms. Sushma Bhende, AGP, for the Respondent No.3 in both writ petitions.

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

THURSDAY, 23RD MARCH, 2017

P.C. :

1 After these writ petitions were argued for sometime and the petitioners have instructed Mr. Thorat to accept the adverse finding in the order of the Scrutiny Committee, the only

request made is that the petitioners may not be able to substantiate and prove their claim as belonging to Koli Mahadev Scheduled Tribe. However, in more places than one, the Scrutiny Committee has held that the documents produced point towards the petitioners as Kolis. They are, therefore, Kolis and which are not recognised as Special Backward Class by the State of Maharashtra.

2 An additional affidavit is tendered by Mr. Thorat affirmed by both petitioners and copy of the same is handed over to Mr. Hegde in Court.

3 Mr. Hedge proceeds on the basis of denials.

4 In this affidavit in paragraph 2, the petitioners' claim that they learnt a few days ago that the Government of Maharashtra by a Resolution dated 21st October, 2015, extended protection to the services of persons appointed in Government service on the basis of the Scheduled Tribe Certificate after 15th June, 1995 and upto 17th October, 2001. Th petitioner in the first petition claims that he was appointed as a conductor by the

second respondent on 30th June, 1998, and, therefore, his services are protected by the Government Resolution. In paragraph 3 of this affidavit, the petitioner relies upon orders passed in the case of similarly placed colleagues and other judgments of this High Court whereby protection was granted and extended to these persons. The petitioner states that he comes from a very poor family. He is the sole bread winner. He has renounced his claim of belonging to Koli Mahadev Scheduled Tribe and purely for protection of his services. Therefore, he will not claim any such benefit nor his progeny will naturally, therefore, follow the same. All that he requests is that his services be protected.

5 We do not think that in writ jurisdiction we should undertake the exercise as desired by the petitioner. We do not think that the High Court in its writ jurisdiction can either hold that the petitioner is not Koli Mahadev Scheduled Tribe, but Koli Special Backward Class or otherwise. Once the challenge to the order of the Scrutiny Committee is given up, but only protection of the services is the relief claimed, then, it is for the employer and entirely to decide whether the petitioners' services can be

protected despite an adverse finding.

6 We, therefore, permit the petitioners to withdraw this writ petition with liberty to approach the Maharashtra State Road Transport Corporation and its competent officials. They can rely upon, not only the Government Resolutions issued earlier, but the latest one. They can rely upon the statements made in the additional affidavit and request the Corporation to protect their services. The Corporation must take a decision in accordance with the prevailing policies as applicable to it and as expeditiously as possible. We do not direct the Corporation to take any particular decision.

7 The writ petitions are disposed of on these terms. Till the Corporation takes a decision on the petitioners' request, the ad-interim protection granted, insofar as their services, by this Court shall continue. However, that will not enable them to claim any equities.

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