

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5389 OF 2017

Vinod Vishnu Rathod

...Petitioner

vs.

State of Maharashtra and Others

...Respondents

Mr. R.K. Mendadkar a/w. Mr. C.K. Bhangoji, for the Petitioners
Mr. Sandeep Babar, AGP for the Respondents-State.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : AUGUST 02, 2017

P.C.:

. Rule. Rule made returnable forthwith by consent of learned counsel for the parties.

2. The Petitioner has approached this Court being aggrieved by the communication dated 18th March, 2017.

3. The petitioner was appointed by Respondent No. 3 as “Helper” against the post reserved for Scheduled Caste on the basis of his claim that he belongs to Varli (Scheduled Tribe). The papers were sent to Respondent No. 2- Divisional Caste Certificate Scrutiny Committee (in short “Committee”) for verification. However, since the Respondent No. 2 -Committee did not decide

the claim of the petitioner and since the Petitioner did not submit the validity certificate in time, the Petitioner's services came to be terminated vide the impugned order dated 18th March, 2017.

4. It is not in the hands of the Petitioner within how much time the caste claim of the Petitioner be decided. It is clear that due to the fault of Respondent No. 2, the Petitioner cannot be punished. The reliance is placed on the judgment in case of **Sudhir Vasantrao Dhekhan vs. Joint Commissioner and Vice Chairman, Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur and ors., 2010 (5) Mh.L.J. 353.**

5. In that view of the matter, we are inclined to allow the Petition and pass the following order.

- (i) The impugned order dated 18th March, 2017 is quashed and set aside.
- (ii) Respondent No. 3 is directed to reinstate the Petitioner within period of two weeks from today.
- (iii) It is made clear that the Petitioner would not be entitled for back-wages for the period he was out of the employment. However he would be entitled to all other service benefits including continuity for the said period.

(iv) It is further directed that Respondent No. 3 shall not terminate the services of the Petitioner for non submission of his validity certificate.

(v) It is further directed that respondent No. 2 - Committee shall decide the claim of the Petitioner as early as possible within period of six months from today. In the event the decision of the Scrutiny committee is adverse, the same shall not be given effect for a period of two weeks from the date of receipt of communication thereof by the petitioner.

6. Rule is made absolute in aforesaid terms. No costs.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)