

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5670 OF 2017**

Digambar D. Pawar

..Petitioner

Vs

State of Maharashtra and ors.

..Respondents

Mr. R.K. Mendadkar for the Petitioner.

Ms R.M. Shinde, AGP for the Respondents.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.
DATE : AUGUST 2, 2017.**

P.C. :

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

The petitioner has approached this Court being aggrieved by the communication dated 4th May 2017.

2] The petitioner was appointed by respondent No.3 as Clerk-cum-Typist against the post reserved for Scheduled Tribe on the basis of his claim he belongs to Thakar, Scheduled Tribe. The papers were sent to respondent No.2 - 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 4th May 2017.

3] 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. 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.***

4] In that view of the matter, we are inclined to allow the petition and pass the following order.

(i) The impugned order dated 4th May 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 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- Scrutiny 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.

5] Rule is made absolute in aforesaid terms. No costs.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)