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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9630 OF 2014

Shri Sampat Rakhmaji Mundhe

..Petitioner.

Vs.

Government of Maharashtra & Anr

..Respondents

Mr. A.A. Kumbhakoni, Senior Advocate a/w Mr. Ramchandra K.
Mendadkar for Petitioner.

Mr. C.P. Yadav, AGP for Respondents.

**CORAM: R.M. BORDE AND
A.S. GADKARI, JJ.**

DATE: 12 JANUARY 2017.

P.C.:

Heard.

2 Rule. With consent of the learned counsel for the parties,
petition is taken up for final disposal.

3 The petitioner is objecting to the Order dated 11 August 2010

passed by the Special Inspector General of Police, whereunder the deemed date of promotion awarded to the petitioner earlier in the cadre of A.P.I. has been directed to be changed. It is the contention of the petitioner that the departmental promotion committee considered the case of the petitioner and awarded the deemed date of promotion in the cadre of API by virtue of order dated 1.1. 1999. By order dated 11.8.2010, the revised deemed date that has been awarded to the petitioner is 7.2.2006. The petitioner entered into employment claiming the benefits of reservation i.e. as a member belonging to the Scheduled Tribe category. The caste certificate issued to the petitioner certifying that he belongs to the Scheduled Tribe came to be invalidated by the Caste Scrutiny Committee. The petitioner thereafter obtained a certificate from the competent authority certifying him to be a member belonging to Vanjari caste which is included in the Nomedic Tribe (NT-D) category. Since the petitioner was inducted in the employment prior to year 1995 in view of policy formulated by the State Government his services are liable to be protected. The question that arose before the employer is in respect of award of deemed date of promotion in the cadre of API. The employer taking note of order of invalidation of caste certificate which was produced by petitioner while seeking employment claiming himself to be a member belonging to Scheduled Tribe category,

directed revision of the order prescribing deemed date in cadre of API. In compliance of such direction by superior authority, post invalidation order, impugned order directing revision of deemed date awarded to him, in cadre of API, has been issued. The petitioner contends that the order passed on 11 August 2010 by the Special I.G is violation of the principles of natural justice since he has not been extended an opportunity of hearing before issuance of such order. The order issued by the Special Inspector General of Police revising deemed date of promotion in the cadre of API awarded to petitioner earlier has adverse civil consequences and as such observation of principles of natural justice is mandatorily required. The petitioner contends that although said objection was raised in the original application presented to the Maharashtra Administrative Tribunal, the same has not been considered and the Tribunal proceeded to decide the matter.

4 Considering the facts and circumstances of the case, without commenting upon the merits of the claim raised by the petitioner, we are of the opinion that since the order dated 11 August 2010 is issued in violation of principles of natural justice, same deserves to be quashed and set aside and it shall be appropriate to direct the concerned authority to reconsider the issue and pass appropriate order after extending opportunity of hearing

to petitioner and in accordance with law.

5 Accordingly, the Order passed by the Special Inspector General of Police dated 11 August 2010 is hereby quashed and set aside and the matter is remitted back to the said authority for reconsideration. As a consequence of quashment of order dated 11.8.2010, the Order dated 25 July 2014 passed by the Maharashtra Administrative Tribunal also does not survive and as such is quashed.

6 The Special I.G.P shall extend opportunity of hearing to the petitioner and take appropriate decision as expeditiously as possible and preferably within 8 weeks from today. In the meantime, status-quo as on today be maintained until the decision on the issue as directed by us.

7 Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

(A.S. GADKARI,J.)

(R.M. BORDE, J.)