

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11441 OF 2015

Mrs. Neelima Narayan Waidande @

Kum. Shaila Kisanrao Gaikwad

.... Petitioner

vs

1 State of Maharashtra

2 Divisional Caste Certificate

Scrutiny Committee No.1

3 Zilla Parishad, Nashik

.... Respondents

Mr. R.K. Mendadkar with Ms. Komal Gaikwad for the petitioner.

Mrs. Rupali Shinde, AGP for State/Respondents 1 and 2.

Mr. Abhijit Patil for Mr. Ajay S. Patil for respondent No.3.

**CORAM: ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : May 04, 2017

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

1 Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2 The Petitioner, who is Christian by birth married to one Mr. Narayan Shivram Waidande, who belongs to “Mang” caste which is recognised as Scheduled Caste (SC) under the Presidential Order passed under Article 341 (1) of the Constitution of India.

3 A couple certificate was issued by Sub Divisional
Magistrate, Nasik on 4.08.1983. Based upon the same, the Petitioner
was appointed by Respondent No.3-Zilla Parishad under the reserved
category of S.C. The Petitioner was promoted in open category
(handicap). She was promoted again in the year 2013.

4 By order dated 13.08.2014, Respondent No.2-Committee
invalidated and confiscated the couple certificate. The Petitioner,
therefore, approached to this Court in view of the apprehension of
termination of service. The Petitioner has been in service till this date.

5 An undertaking is placed on record by the Petitioner on
24.04.2017 and has claimed the protection based upon the Full Bench
judgment in *Arun Vishwanath Sonone v. State of Maharashtra*¹ with
the undertaking that she is giving up her caste claim, based upon the
couple certificate and further that she would not claim any benefits for
the stated caste in future, while in employment with Respondent
No.3. The undertaking is part of the record. The learned counsel for
Respondent No.3 submits, on instructions, that in view of this
undertaking, they are willing to continue her service.

6 Even otherwise, considering the judgments which are

1 2015 (1) Mh. L. J. 457

listed below, of this Court, while dealing with the similar situation, based upon the effect of invalidation of the couple caste certificate and the scheme, ultimately has protected the services of such persons.

1) Writ Petition No.8212/2004-Smt. Fatima Froes Sadavarte

alias Fatima Sukurina Froes vs. State of Maharashtra, decided on 23.11.2004.

2) Writ Petition No.3583/2003-Mrs. Vandana Vishwanath Londhe v.

The State of Maharashtra & ors., decided on 4.7.2003.

7 In view of above, the learned counsel for the Petitioner is not pressing prayers (a) and (b). However, submitted to grant prayer clause (c).

8 Therefore, taking overall view of the matter and in view of the admitted facts and the reasons so recorded in the above judgments, we are inclined to dispose of the present writ petition by the following order :

ORDER

(a) The writ petition is allowed in terms of prayer (c)

which reads thus:

“(c) That this Hon'ble Court be pleased to issue a writ of mandamus and/or any other writ, order or direction in the nature of Mandamus thereby directing the Respondent No.3 Zilla Parishad to protect the service of the Petitioner on the present post occupied by her pursuant to the judgments and orders passed by this Honble Court in the cases of Fatima Froes Sadavarde, Vandana Londe.”

(b) Rule made absolute accordingly.

(c) No costs.

(RAVINDRA V. GHUGE J.)

(ANOOP V. MOHTA, J.)