

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.141 OF 2017

Sulochana Maruti Holkar

...Petitioner

vs.

State of Maharashtra and Others

...Respondents

Mr. C.K. Bhangoji a/w. Mr. T.V. Jadhav i/b. Mr. V.A. Madne, for the
Petitioner

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

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

DATE : JUNE 20, 2017

P.C.:

. Parties through their counsel.

2. The Petitioner claims that she was appointed by the Respondent No. 2 on compassionate basis vide order dated 15th February, 1993 (Exhibit "A") being wife of the deceased Maruti Shankar Holkar who was in the services of Respondents. She has been aggrieved by the communication dated 31st August, 2013 (Exhibit "C") by which she has been asked to produce the Caste Validity Certificate failing which it has been informed to her that her services will be terminated. According to the Petitioner the Scheduled Tribe Certificate Scrutiny Committee, Pune (in short

“Committee”) has rejected the Petitioner's claim vide order dated 29th October, 2016.

3. The learned counsel for the Petitioner maintains that in spite of the fact that the Petitioner's claim has been rejected by the Committee, the Petitioner having been appointed on compassionate ground, it is not open for the Respondents to initiate any action of termination of the Petitioner's service on the ground that the Petitioner has failed to produce the Cast Validity Certificate.

4. The learned counsel for the Petitioner placed reliance on the judgment of the Division Bench of this Court passed in the case of **Shashikant Bhagawant Dhale vs. State of Maharashtra** in **Writ Petition No. 2687 of 2014** decided on **18th October, 2016** and in the case of **Pramod Shivaji Shinde vs. State of Maharashtra** in **Writ Petition No. 4656 of 2014** dated **18th April, 2017** to contend that once appointment is made on compassionate ground and there is nothing on record that the reservation policy is applied in making such appointment on compassionate basis then in that case the employer would not be justified to direct the employee to produce the Caste Validity Certificate.

5. In the present case, it is not in dispute that the Petitioner was appointed on the compassionate basis and not against the reservation. In reply affidavit filed by the Respondent-State it has been stated in para 3 that the Petitioner's appointment was on compassionate basis. It is not a stand of the Respondent that the Petitioner was appointed against the reservation. In the circumstances, it is clear that the appointment of the Petitioner was on compassionate basis.

6. Keeping in view the aforesaid, in our considered view the Petitioner's service cannot be terminated on the ground that the Petitioner has failed to produce the Caste Validity Certificate.

7. As a result, we allow the Petition and direct the Respondents not to terminate the Petitioner's service merely for non production of Caste Validity Certificate.

8. The Petition is allowed.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)