

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1823 OF 2015

Bhalchandra M. Shirkar

....Petitioner

V/s.

BMC and Anr.

....Respondents

Mr. R.K.Mendadkar with Ms. Priyanka N. Shaw, Advocates for
Petitioner.

Mr. Sagar Patil, Advocate for Respondent Nos.1 and 2-MCGM.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 16TH NOVEMBER, 2017.

RC. :-

1 The Petitioner challenges the order dated 5.1.2015 which was passed in pursuance to the orders passed by this Court on 10.11.2014 in Writ Petition No.2731 of 2013 vide which we held that the Petitioner's seniority in the teacher of assistant cadre would be treated from Scheduled Caste with effect from 19.7.1982.

2 Though the Petitioner belongs to Scheduled Caste, he was granted promotion treating him to be from the Scheduled Tribe since his wife belongs to Scheduled Tribe category.

3 Vide order dated 5.2.2013, promotion granted to the

Petitioner to the post Head-Master was withdrawn and he was demoted to the post of Assistant Teacher. Being aggrieved thereby, the Petitioner approached this Court by way of Writ Petition No.2731 of 2013. The Division Bench of this Court vide order dated 10.11.2014 remanded the matter to the Education Officer with a direction to decide the case of the petitioner. In pursuance to the said direction, the impugned order has been passed.

4 We see no error in the impugned order in view of the law laid down by Their Lordships of the Apex Court in the case of **Valsamma Paul v. Cochin University and Others** reported in **(1996) 3 Supreme Court Cases 545** wherein it has been categorically held that spouse of reserved category person is not entitled to reservation benefits of spouse belonging to the reserved category, if another spouse does not belong to the same category. In that view of the matter, the Petitioner could not have granted promotion from the Scheduled Tribe category but was only entitled to promotion as per his seniority in the Scheduled Caste Category.

5 No merit is found in the Petition. The Petition is dismissed.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)