

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 487 OF 2017

with

CONTEMPT PETITION NO. 41 OF 2017 IN

WRIT PETITION NO.487 OF 2017

1) WRIT PETITION NO. 487 OF 2017 :

Dr. Syed Riyazuddin Syed Nizamuddin,
Aged about 57 years, Occ. Service,
r/o. Gajanan Colony, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.

PETITIONER

// VERSUS //

1. District Caste Certificate Scrutiny
Committee, Social Justice Bhavan,
Trisharan Chowk, Chikhali Road,
Buldhana, through it's Research
Officer and Member-Secretary.
2. The Principal,
Gulam Nabi Azad Arts,

Commerce and Science College,
Barshitakli, Distt. Akola.

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RESPONDENTS

Mr.S.R.Narnaware, Advocate for the Petitioner.

A.G.P. for Respondent No.1.

Mr.R.D.Karode, Advocate for Respondent No.2.

2) CONTEMPT PETITION NO. 41 OF 2017 IN
WRIT PETITION NO.487 OF 2017

Dr. Syed Riyazuddin Syed Nizamuddin,
Aged about 57 years, Occ. Service,
r/o. Gajanan Colony, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.

PETITIONER

// VERSUS //

Dr. Madhukar R. Pawar,
Principal, Gulam Nabi Azad
Arts, Commerce and Science
College, Barshitakali, Distt.
Akola.

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RESPONDENTS

Mr.S.R.Narnaware, Advocate for the Petitioner.

Mr.R.D.Karode, Advocate for Respondent No.1.

CORAM : B.R.GAVAI
& A.S.CHANDURKAR, JJ.

DATE : 10.4.2017.

ORAL JUDGMENT (Per B.R.Gavai, J) :

1. Rule. Rule is made returnable forthwith. Heard by consent.
2. The petitioner has approached this Court being aggrieved by the communication addressed by respondent no.2 thereby directing him to submit Validity Certificate of belonging to Scheduled Caste and informing him that, on non-submission of the same, his services shall stand terminated.
3. The petitioner belongs to caste 'Madari', which is notified as a Scheduled Caste. The petitioner has been appointed as an Assistant Professor against the post reserved for Scheduled Caste Candidate. The petitioner has also been granted Caste Certificate certifying that he belongs to Scheduled Caste. However, respondent no.1/Committee has refused to consider the claim of the petitioner for grant of Validity

on the ground that the petitioner does not belong to 'Hindu' religion, but belongs to 'Muslim' religion and as such, his claim cannot be considered.

4. Mr.S.R.Narnaware, learned Counsel for the petitioner submits that the issue with regard to the question as to whether the persons professing the Muslim religion and the Christian religion are entitled to the benefits of Scheduled Caste are pending ad judication before the Apex Court and as such, the petitioner should be granted protection.

5. However, in the peculiar facts and circumstances of the case and particularly, since respondent no.2/Management has no objection for continuation of the petitioner's services, we find that the interest of justice would be sub-served if the petitioner's services are protected. We are inclined to take this view since the petitioner is likely to retire in this year itself. In that view of the matter, in the peculiar facts and circumstances of the case, we direct that the petitioner's services shall stand protected and he shall not be terminated on the ground of non-submission of Validity Certificate.

6. Needless to state that the petitioner shall be reinstated in services forthwith. He shall be entitled to continue in service with all backwages including pensionary benefits etc.

7. Rule is made absolute in the above terms. No order as to costs.

8. In view of the orders passed in Writ Petition No.487 of 2017, nothing survives in Contempt Petition No.41 of 2017. Hence, the same is disposed of.

JUDGE

JUDGE

jaiswal