

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

WRIT PETITION NO.3056/2000

Bharatsingh Chunnisingh Jakhanawat
occu: service, original R/o Belona
Tah. Narkhed, Dist. Nagpur
Junior Clerk, Fulchur High School
Fulchur, Tah. & Dist. Gondia.

..PETITIONER

v e r s u s

- 1) Shri Samarth New Education society
Gondia, Tah.& Dist. Gondia
Through the Secretary
Governing Council
- 2) Committee for Scrutiny & Verification
of Tribe Claim, Nagpur.

..RESPONDENTS

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Mr. M.V.Samarth, Advocate for the petitioner
Mr. N.S.Rao, Asst.Government Pleader for Respondent no.2.
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CORAM: R.K.DESHPANDE &
MRS. SWAPNA JOSHI, JJ.

DATED : 8th June, 2017

ORAL JUDGMENT: (PER R.K.DESHPANDE, J.)

The petitioner was initially appointed in the School run by the respondent no.1 as Laboratory Assistant, on 12.10.1983. His appointment was approved by the Education Officer on 12.12.1994 and it is claimed his approval was not as a candidate belonging to Scheduled

Tribe category, but as a candidate from open category. The petitioner was granted promotion on the post of Junior Clerk on 23.01.1989 and this appointment was approved on 24.09.1990 by the Competent Authority. Since then, the petitioner was working on such a post.

2. On reference to the Committee for Scrutiny and Verification of Tribe Claim, Nagpur, the claim of the petitioner for “Thakur” Scheduled Tribe, was not established and, accordingly, it was rejected by the said Committee by an order dated 29.06.2000, which is the subject-matter of challenge in this Writ Petition.

3. This petition was filed in the year 2000 when the petitioner was about 42-years of age and, by now, the petitioner must have attained the age of 59-years. There is no finding recorded by the Scrutiny Committee that the claim of the petitioner for “Thakur” Scheduled Tribe was fraudulent or was obtained by misrepresentation. We have gone through the return filed by the respondent no.2-Committee. The respondent no.1-society, who is the employer of the petitioner, has not filed any return. The averments of the petitioner in the petition that his appointment was from open category, has not been controverted. We

cannot accept mere denial of the Scrutiny Committee in respect of the claim of the petitioner that he was appointed from general category. The Scrutiny Committee is not the Competent Authority to state as to whether the petitioner was appointed as a candidate belonging to Scheduled Tribe category or from open category. In view of the above, we do not find that the order passed by the Scrutiny Committee can come in the way of the petitioner to claim the benefit of protection in service as a candidate belonging to general category.

4. Be that as it may, in view of the decision of the Full Bench of this Court, in case of Arun Vishwanath Sonone vs. State of Maharashtra and others, reported in 2015(1)Mh.L.J.457, the petitioner shall be entitled to protection even if it is assumed that he has failed to establish his claim for “Thakur” Scheduled Tribe and that he was appointed from the category of Scheduled Tribe.

5. The Writ Petition is, thus, disposed of in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE

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