

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6502 OF 2017

Santosh Lingam Patwekar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.

Mrs. Vaishali N. Patil-Jadhav, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
ARUN M. DHAVALA, JJ.**

DATE : 16TH JANUARY, 2018.

FINAL ORDER :

. Present petition is filed against the order dated 25.04.2017 terminating the service of the petitioner on the ground that the petitioner has not yet submitted the validity certificate.

2. The petitioner was appointed as a clerk from the scheduled tribe category. As the petitioner was given benefit of reservation, the petitioner was directed to produce the validity certificate within a period of six months. Having failed to produce the validity within stipulated period and the extended period, the employer terminated the services of the petitioner under the impugned order.

3. This Court on 29.06.2017 had disposed of the writ petition by giving directions to the Committee to decide the validation proceedings within three months. The petitioner assailed the said order before the Apex Court on the ground that this Court in number of matters had granted protection against termination and in case termination orders were effectuated, reinstatement was granted. The Apex Court remitted the matter back to this Court.

4. The learned Assistant Government Pleader on instructions states that, the Committee has referred the matter to the vigilance and the vigilance report is not yet received.

5. It would appear that, it is not in the hands of a litigant to get the proceedings decided within stipulated period. The matter is still at the stage of vigilance. As such, it cannot be said that the petitioner is guilty of prolonging the matter. Till the vigilance is completed, the petitioner does not have any role to play.

6. As the validation proceeding is still pending and petitioner is not at fault in not getting the proceeding decided, the order impugned terminating the service of the petitioner for non production of validity certificate is set aside. The respondents

shall reinstate the petitioner on or before 01.02.2018 on the post held by the petitioner. It is made clear that, the petitioner will not be entitled for the salary from the date of his termination till the date of reinstatement, however, said period can be counted for the purpose of continuity.

7. The Committee shall decide the proceeding expeditiously. The time stipulated by the Court vide its order dated 29.06.2017 has lapsed long back. The Committee shall endeavour now to decide the validation proceeding expeditiously and preferably within a period of four (04) months from the date of appearance of the petitioner. The petitioner shall appear before the Committee on 29.01.2018. The respondent/employer is entitled to take further course of action depending upon the judgment that would be delivered by the committee in the validation proceeding. The writ petition accordingly is disposed of. No costs.

[ARUN M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]