

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2915 OF 2016

Shri. Rajkumar Nagappa Koli

...Petitioner

Versus

The Dy. Director (R) & Member Secretary,
Scheduled Tribe Certificate Scrutiny Committee,
Pune and Ors.

...Respondents

....

Mr.G.M. Savagave, Advocate for the Petitioner.

Mr. Sandeep Babar, AGP, for Respondents No.1 & 4.

Mr. R.V. Govilkar a/w. G. Hariharan i/b. A.A. Ansari, Advocate for
Respondents No.2, 3 and 5.

....

**CORAM : SHANTANU KEMKAR &
R. G. KETKAR, JJ.**

DATE : FEBRUARY 21, 2018

P.C.

1. By filing this Petition under Article 226 of the Constitution of India, the petitioner has prayed for following reliefs :

- a. Rule Nisi be issued and the record and proceedings may be called for.
- b. This Hon'ble Court may be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, order or direction under Article 226 of the Constitution of India, calling for the record and proceedings of the impugned termination order dated 31/1/2013 issued by the Respondent No.2 and after going through the same quash and set aside the said termination order.
- c. This Hon'ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any

other appropriate writ, direction or order under Article 226 of the Constitution of India, directing the Respondents No.2 and 3 to reinstate the petitioner on the post of Sorting Assistant in the office of Respondent No.2 with all consequential service benefits.

- d. Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court may be pleased to direct the Respondents No.2 and 3 to allow the Petitioner to resume on duty at his previous post.
- e. For interim / ad interim relief be granted in terms of prayer clause [d] above,”

2. It is to be seen that in the petition, the petitioner has made specific averments in paragraph - (s) [second time appearing paragraph (s)] and paragraph (t) which read as under :

“s) The Petitioner states that in the aforesaid circumstances the Petitioner is in employment. The Petitioner further states that now the Petitioner does not desire to insist of belonging to Scheduled Tribe and accept the decision of the caste certificate scrutiny committee.

t) The Petitioner states that by the present Petition is Petitioner restricts the claim of the Petitioner for protection of service on the ground that the Petitioner is in settled employment. The Petitioner further states that therefore the Petitioner is entitled to protect his service on the ground that he is in settled employment and the Hon'ble Supreme Court of India has taken view that in the case of the persons who are in settled employment their services should not be disturbed on account of invalidation of their caste claim and the said view was taken in the case of Kavita Solunke V/s. The State of Maharashtra and Ors., reported in 2012 AIR SCW 4472. Hereto annexed and marked at EXHIBIT-H is a copy of

the order passed by the Hon'ble Supreme Court of India in Kavita Solunke V/s. The State of Maharashtra and Ors., reported in 2012 AIR SCW 4472.”

3. Thus it is clear that the petitioner has not challenged the order passed by the Caste Scrutiny Committee and the same has attained finality. The Supreme Court in the case of ***Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others, (2017) 8 SCC 670*** has categorically held that where a benefit is secured by an individual – such as an appointment to a post or admission to an educational institution – on the basis that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or non *est*.

4. In the circumstances, it is clear that once the caste certificate has been invalidated, the reliefs claimed in this Petition cannot be extended in favour of the petitioner. We accordingly dismiss the petition.

(R. G. KETKAR, J.)

(SHANTANU KEMKAR, J.)