

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7725 OF 2018

Surekha Suresh Kavale and anr. : Petitioners.
Versus
The State of Maharashtra
Through Secretary and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.10227 OF 2018**

Chintaman Trimbak Nikule : Petitioner.
Versus
The State of Maharashtra
Through Secretary and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.10228 OF 2018**

Mahadev R Kotkar and ors. : Petitioners.
Versus
The State of Maharashtra
Through Secretary and ors. : Respondents.

Mr. Pralhad D Paranjape for the Petitioners in all the Petitions.
Mrs. Rupali Shinde, AGP for the Respondent/State in Writ Petition
No.7725 of 2018.
Mrs. M P Thakur AGP for the Respondent/State in Writ Petition
Nos.10227of 2018 and 10228 of 2018.
Mr. Mihir Mody a/w Mr. Nirav Parmar I//by M/s. K Ashar & Co. for the
Respondent Nos.2 and 3.

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.**
DATE : 26th OCTOBER 2018

P.C.

1 The Petitioners in the above Writ Petitions are the employees of
the Reserve Bank of India (“RBI” for short), and working in various capacities

in the RBI. The Petitioners have joined the RBI on various dates which are mentioned in the above Writ Petitions.

2 Suffice it would be to state that the Petitioners have been working in the RBI for a sufficient long period of time. The Petitioners claim to belong to reserved category and in terms of the mandate of the Caste Certificate Act, 2001 the Petitioners were required to obtain the caste validity certificate. In so far as the said aspect is concerned, the Apex Court in the judgment rendered in the case of **Chairman and Managing, Food Corporation of India and others v/s. Jagdish Balaram Bahira and others** issued directions covering the cases where the persons who have been appointed in the posts meant for reserved category. Their caste certificates have been invalidated on the ground that the same were obtained by fraud. The Apex Court in the said case has considered the mandate of the Caste Certificate Act, 2001 whilst issuing the said directions.

3 Following the judgment of the Chairman and Managing, Food Corporation of India's case (supra), a Division Bench of this Court sitting at Nagpur in Writ Petition No.1562 of 2004 in the matter of **All Indian Adivasi Employees Federation v/s The Reserve Bank of India** and companion Writ Petitions and Contempt Petitions amongst which was Writ Petition No.258 of 2014 wherein one Gajanan Marotrao Nimje was the Respondent No.5 issued

directions which are contained in paragraph 63 to 66 of the said judgment. The directions are inter-alia to the effect that the RBI to take steps to discontinue and terminate the services of all those who have given up their caste claims and are continuing in service on the basis of protection and especially the Respondent Nos.5 to 140 who were on its roll to be forthwith discontinued and not release any payment of dues to the said Respondents-Employees and to take steps within next two months to recover payments or dues released from the Respondents-Employees.

4 The said judgment was carried to the Apex Court by way of a SLP being No.13011 of 2018 in the matter of **Gajanan Marotrao Nimje & ors v/s. The Reserve Bank of India.** The Apex Court has disposed of the said SLP by issuing directions which are contained in paragraphs 11 and 12 of its order dated 11/10/2018. The said paragraphs 11 and 12 read thus :-

11. Having regard to the background, as above, we are of the view that the appellants are entitled to the protection granted by the same High Court in the judgment dated 1.11.2012 in Writ Petition No.1512/2004. In any case the parties to the writ petition cannot be disturbed collaterally and the judgment operated as a judgment in rem in view of the circular dated 1.7.2013 issued by the Reserve Bank of India and since the litigations were pursued by the respective associations.

12. Therefore, these appeals are disposed of as follows:-

In partial modification of the impugned judgments, it is ordered that all the appellants shall be placed below the last of the general category candidate as on 28.11.2000 and will be continued as such till their superannuation. All the benefits which the appellants earned as reserved category candidates after 28.11.2000 will be surrendered/recovered. After 28.11.2000 the benefits available to the reserved category candidates will be given to the members of the reserved category regarding whom there is no dispute. There shall be no recovery of any⁶ benefits from the employees who are already superannuated. Action, if any, taken pursuant to the impugned judgment(s) will stand recalled and modified to the extent indicated hereinabove.

Needless to say that the notification dated 24.12.2013 will be appropriately reconsidered.

In view of this judgment, we request the High Court to dispose of all the contempt proceedings initiated against the officers of the Reserve Bank of India for non- implementation of the impugned judgment dated 13.04.2018.”

Hence the Apex Court partially modified the directions which are issued by the Division Bench of this Court by the order dated 13/04/2018 to the extent of the directions contained in paragraphs 11 and 12 of its order.

5 On the basis of the order dated 13/04/2018 passed by the Division Bench of this Court, show cause notices came to be issued to the Petitioners. In respect of the Petitioners in Writ Petition No.7725 of 2018 the said show cause notice was dated 30/05/2018. By the said show cause notices the Petitioners were called upon to show cause as to why their services should not be terminated for not producing their caste validity certificates within the time

stipulated by the said Act. The Petitioners it seems have replied to the said show causes notices. The Petitioners are now seeking to place reliance on the judgment of the Apex Court in the said SLP No.13011 of 2018 i.e. in the case of **Gajanan Marotrao Nimje** (supra) and especially seek protection which is being granted by the said judgment excerpt of which we have reproduced in the earlier part of this order.

6 At this stage it would be relevant to note the particulars in respect of the Petitioners in the matter of their caste validity certificates. In so far as the Petitioners in Writ Petition No.7725 of 2018 are concerned, one of the Petitioners i.e. Surekha Suresh Kavale has already obtained the caste validity certificate as belonging to Koli Mahadev Scheduled Tribe and the other Petitioner has not obtained the validity certificate. In so far as the Petitioner in Writ Petition No.10227 of 2018 is concerned, he has already been terminated on 31/05/2018 and, after his termination he has obtained the caste validity certificate as belonging to Kokana-Scheduled Tribe. In so far as the Petitioners in Writ Petition No.10228 of 2018 are concerned, they are three in number. None of the Petitioners have obtained the caste validity certificate and the said Petitioners have been terminated on 31/05/2018.

7 In the light of the directions issued by the Apex Court in **Gajanan Marotrao Nimje's** case (supra), the learned counsel appearing on behalf of the

RBI fairly states that the directions as contained in the said judgment and order passed by the Apex Court would be required to be complied with by the RBI. We appreciate the fair stand of the learned counsel for the RBI.

8 In the facts and circumstances of the present case, we are also of the view that the course of action as propounded by the Apex Court in *Gajanan Marotrao Nimje's* case (supra) would have to be followed. Hence we issue the following directions :-

- A] That the Reserve Bank of India i.e. the Respondent Nos.2 and 3 herein would take follow up action in respect of the Petitioners in the above Writ Petitions in terms of the directions of the Apex Court as contained in the judgment and order dated 11/10/2018 in *Gajanan Marotrao Nimje's* case (supra).

- B] In the case of those of the Petitioners who have been terminated for non-production of the caste validity certificate, such Petitioners can make a representation to the competent authority of the Reserve Bank of India within two weeks from date and on such representations being received, the Reserve Bank of India would consider them in accordance with law as also in the light of the directions as contained in the said judgment and order dated

11/10/2018 in ***Gajanan Marotrao Nimje's*** case (supra) as expeditiously as possible.

C] In so far as the Petitioners who have obtained caste validity certificate are concerned, they would produce the same before the Competent Authority of the Reserve Bank of India who would thereafter take action as contained in Clause (A) as above.

D] With the directions as aforesaid, the Writ Petitions are disposed of.

[NITIN W. SAMBRE, J]

[R. M. SAVANT, J]