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

**CIVIL APPLICATION NO.5547 OF 2019
IN
WRIT PETITION NO.2396 OF 2013**

Pandurang s/o Shitalprasad Tiwari ..APPLICANT

VERSUS

The State of Maharashtra & ors. ..RESPONDENTS

Mr V. D. Salunke, Advocate for applicant;
Mrs A. V. Gondhalekar, A.G.P. for respondent Nos.1 & 2;
Mr K. J. Ghute Patil, Advocate for respondent Nos.3 & 4

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 23rd July, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the applicant/petitioner.

2. The applicant, placing a heavy reliance on Government Resolution dated 5th June, 2018 is before this Court with following prayer clauses (B) and (C) :

"B) That respondents may kindly be directed to refer the matter of applicant to Ministerial Sub Committee established under Government Resolution dated 05/06/2018

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Exhibit "A-1", further directing the respondents to allow the applicant to continue in his post as a Shikshan Sevak treating it from open category till further decision of the committee.

C) Pending hearing and final disposal of this Writ Petition the respondent may kindly be directed to allow the applicant to work as a Shikshan Sevak till his claim is referred and decided by Ministerial Sub Committee under Government Resolution dated 05/06/2018."

It would be necessary for us to refer to certain facts so as to consider the application and the prayers.

3. The petitioner had approached this Court by filing Writ Petition No.2396 of 2013, challenging termination order dated 21st August, 2012, issued by the Chief Executive Officer, Zilla Parishad, Osmanabad. The petitioner suffered termination on the ground that he was appointed subject to condition of filing caste validity certificate within a stipulated period of three months and in spite of notices given to him, he failed to file validation certificate. Interestingly enough, the claim of the petitioner was decided by the Scrutiny committee and

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by an order dated 22/27th May, 2012, the same was rejected and the certificate issued in favour of the petitioner was confiscated by the Scrutiny Committee on the backdrop of invalidation of the caste certificate and rejection of claim was communicated to the Chief Executive Officer, Zilla Parishad to take action on termination of services of the petitioner and the action was taken on the basis of the decision of the Committee.

4. The petitioner, in Writ Petition No.2396 of 2013 only challenges the termination order without their being any challenge raised to the Scrutiny Committee's order. The notice was issued in the petition on 25th March, 2013. No interim relief was granted in favour of the petitioner. The petition was admitted on 17th February, 2014. It would not be out of place to state that the petitioner has raised a challenge to the Scrutiny Committee's order by a substantive writ petition, namely, Writ Petition No.6875 of 2012 and the Division Bench of this Court, by an order dated 4th October, 2012, dismissed the petition by assessment of the merits of the matter and by assigning the reasons. The order of the Division Bench, dated 4th October, 2012 in Writ Petition No.6875 of 2012 was subjected to a challenge before the Honourable the Apex Court by preferring Petition for Special Leave to Appeal. Perusal of the order dated 8th February, 2013,

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passed by the Honourable the Apex Court shows that the petitioner had restricted his claim in respect of service only, having been appointed as a candidate against quota of project affected person. In the Apex Court, it was the submission of the petitioner that the issue that the petitioner's appointment against the quota of project affected person was not considered by the Division Bench of this Court. Accordingly, the Apex Court permitted the petitioner to move the High Court to seek appropriate relief. The Honourable the Apex Court, in clear words observed that it was not inclined to interfere in the order passed by the High Court and the Petition for Special Leave to Appeal was dismissed.

5. Now, on the backdrop of this fact, the petitioner is before this Court with the present application placing reliance on the Government Resolution dated 5th June, 2018. It is the submission of learned Counsel for the applicant/petitioner that as the Government Resolution dated 5th June, 2018 grants protection to the employees whose caste claim was invalidated till a Sub-Committee constituted by the State Government submits its report to the State Government. Learned Counsel for the applicant/petitioner also placed reliance on the interim order passed by the Division Bench of this Court at Nagpur on 7th February, 2019.

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6. In our opinion, the ground raised by the petitioner and in turn the prayer for protection in the service is wholly untenable. At the cost of repetition, we state that the issue of the caste claim of the petitioner is concluded by the decision of this Court dated 4th October, 2012 and upheld by the order of the Honourable the Apex Court, dated 8th February, 2013 while dismissing Petition for Special Leave to Appeal filed by the petitioner and what remains for consideration before this Court is only the issue as to whether the petitioner was appointed as a candidate from the quota of project affected person. The attempt of the petitioner of reviving the issue which is already concluded either on the basis of Government Resolution dated 6th June, 2018 or the interim order of the Division Bench of this Court at Nagpur dated 7th February, 2019 is wholly unacceptable. We are unable to persuade ourselves to entertain the application for the above referred reasons.

7. The application, being wholly meritless, deserves to be rejected and the same is accordingly rejected.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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