

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

928 WRIT PETITION NO.14675 OF 2019

BHIMANNA NARAYAN GONLAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Vibhute Sunil M.
AGP for Respondents/State : Mr. K.N. Lokhande
Advocate for R/3 : Mr. V.M. Chate

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**CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**
DATE : 05.12.2019

PC. :-

We have heard Mr.Vibhute the learned advocate for the petitioner, the learned A.G.P and Mr. Chate the learned advocate for respondent no.3.

2. The petitioner is assailing the order dated 23.11.2015 passed by the respondent no.2 cancelling the tribe certificate on the ground that it is not in the proper format.

3. It is submitted that the certificate was issued by the Tahsildar who at the relevant time was competent to issue it. The committee did not consider the said aspect and without hearing the petitioner cancelled it.

4. Mr. Vibhute, learned counsel for the petitioner submits that the petitioner was under impression that because of the policy of the Government the petitioner would not be required to submit the validity certificate.

5. The policy, that existed at the relevant time was granting protection to those who have been employed prior to the year - 1995. The petitioner was employed after the year - 1995.

6. Even otherwise, in view of judgment of the **Chairman and Managing Director, Food Corporation of India and Others Vs. Jagdish Balaram Bahira and others** reported in (2017) 8 SCC 670, in case the tribe claim is invalidated all the benefits received by the person on the basis of the tribe certificate have to be revoked and cancelled.

7. The petitioner cannot claim the benefit of reservation without getting the validity of his tribe claim and if his tribe claim is invalidated then the action can be taken against the petitioner for the same.

8. Considering the fact that the petitioner claims that it was his *bonafide* mistake in not prosecuting the proceeding and the fact that the matter involves the social status of the petitioner, we are inclined to grant one more opportunity to the petitioner, however the petitioner deserves to be mulct with costs.

9. The impugned order is quashed and set aside. The parties are relegated before the scrutiny committee on condition that the petitioner deposits costs of Rs.25,000/- (Rs. Twenty Five Thousand only) in this Court on or before 06.01.2020. The amount deposited by the petitioner shall be transmitted to the Govt. Cancer Hospital Institute, Aurangabad. The petitioner shall appear before the committee on 06.01.2020. If the petitioner deposits costs as directed above, the committee shall decide the validation

proceeding within six (06) months from the date of appearance of the petitioner. The petitioner shall cooperate in expeditious disposal of the proceeding and shall not seek any adjournment. The employer shall be entitled to take further course of action depending upon the judgment that will be delivered by the committee in the validation proceeding. The deposit of costs is a condition precedent.

10. Writ Petition stands disposed of accordingly. No costs.

[AVINASH G. GHAROTE, J.]

[S.V. GANGAPURWALA, J.]