

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4491 OF 2019

Mangal Vithoba Kamble Petitioner
Vs.
State of Maharashtra & Others Respondents

Mr. R.K. Mendadkar for the Petitioner.
Mr. B.V. Samant, AGP, for Respondent Nos.1 & 2.

CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.

DATE : NOVEMBER 25, 2019

P.C:

1. The petitioner says that, despite having served the Institution she has not been able to secure the benefits of such employment. She has now been visited with a virtual penalty which tells her that there was a seat reserved for Scheduled Caste in the establishment of respondent No.3. She applied and after the regular process, being possessed with the Caste Certificate issued in her favour on 4-7-2000 by a Competent Authority, she secured the appointment and joined the services on 13-6-2003. The appointment was conditional, in the sense the Certificate issued to her may have been before The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2000 (for short, termed as "the Maharashtra Act No.23 of 2001) came into force but on that Act coming into effect, the benefit meant for Scheduled Castes in service/public employment is conditional upon that appointee obtaining Caste Validity Certificate from a Caste Scrutiny Committee, competent to validate the claim. The validation is not automatic, in the sense the process of scrutiny and verification under the Maharashtra Act No.23 of 2001 and the Rules framed thereunder would have to be gone through and suffered by the candidate/appointee. In this case, the Certificate was forwarded for scrutiny and verification by the Competent Scrutiny Committee. It is yet to take a decision. On 5-1-2019, the petitioner has been informed by respondent No.3 that having secured the appointment against a reserved seat but not producing the Validity Certificate, would entail in stoppage of salary and increments to her.

2. On perusal of this communication, the simple question that we posed to Mr. Samant, learned AGP appearing for respondent Nos.1 and 2 was, as to when this District Scrutiny Committee will find time to scrutinise and verify the claim. Mr. Samant has no instructions.

3. We do not think that on account of inaction by the

Scrutiny Committee, the petitioner must suffer. There is no record before us to conclude that there is any deliberate or intentional act attributable to the petitioner because of which the scrutiny and verification could not be held. The petitioner is not responsible for the verification and scrutiny not being completed after 16 years and more of her appointment. It is unfortunate that the mandate of the Act is defeated by the State and the whole machinery under it. The State itself is not serious in weeding out bogus and false claims and upholding the genuine and real ones. The State does not wish to take serious, concrete steps to scrutinise and verify the claims expeditiously. In these circumstances, we have no choice but to allow this petition.

4. We allow it. We direct that the Management shall continue to pay the salary and total emoluments including increments in favour of the petitioner until the Scrutiny Committee completes the process in accordance with law. Therefore, subject to the outcome of the proceedings before the 2nd respondent-Committee, the petitioner's appointment shall not be disturbed. The petitioner be allowed to draw the salary in terms of the applicable pay-scale. The increments, if any, shall also be released.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)