

ssp

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5940 OF 2013**

Rajiv Ratan Zodge

...Petitioner

VS.

State of Maharashtra
and others

...Respondents

Mr.Uday Warunjikar for the petitioner

Ms R.M.Shinde, AGP for State

**CORAM : RANJIT MORE &
SURENDRA P.TAVADE, JJ.**

DATE : DECEMBER 19, 2019.

P. C. :

. Heard learned counsel appearing on behalf of respective parties. The petitioner claims that he belongs to "Mahadev Koli" caste. Accordingly, he obtained caste certificate dated 14th February 1986 from the Tahsildar & Executive Magistrate, Pune City, District Pune. On that basis he got job in the year 1990 as a clerk with respondent No.3. On 7th October 1995, the petitioner was promoted to the post of senior clerk. Relying on the decision of the Apex Court in Kumari Madhuri Patil vs. Additional Commissioner [1994 SCC (6) 241], caste certificate of the petitioner was sent for scrutiny by respondent No.3 to respondent No.2. Respondent No.2 vide its order dated 15th February 2013 has invalidated the petitioner's caste claim and his caste certificate was confiscated. This order is impugned in this petition.

2 During the pendency of this petition, the petitioner's services came to be terminated by respondent No.3 solely on the ground that his caste claim that he belongs to "Mahadeo Koli" caste was invalidated by respondent No.2 and he had obtained job on the basis of his caste. The petitioner has also challenged the order of termination.

3 Mr.Warunjikar, learned counsel for the petitioner relied upon the genealogy given on page 42 and 43 of the petition and the certificate granted to petitioner's near relatives from parental side and submitted that the petitioner's claim ought to have been validated.

4 The learned AGP supported the impugned order. Learned counsel for respondent No.3 submitted that if the caste claim of the petitioner is validated, he would be entitled for reinstatement in service.

5 Page 52 is a document of caste validity certificate given by the Caste Scrutiny Committee in favour of Anna D. Zodge. On page 60, there is caste validity certificate of Balnath Zodge. On page 62, there is caste certificate in favour of Anita Zodge, page 64 is the caste certificate of Narendra Balnath Zodge. Genealogy referred to hereinabove makes it clear that Anna Zodge is the cousin brother of the petitioner, Balnath is cousin uncle of the petitioner. Anita and Narendra are the children of Balnath Zodge.

6 It is pertinent to note that above referred validity certificates were produced by the petitioner before respondent No.2. We have

perused the impugned order. There is no reference of these certificates in the impugned order. Respondent No.2-Committee rejected the petitioner's claim on the conjecture and surmises. We are of the opinion that the Committee ought to have granted validity certificate to the petitioner in terms of the decision of the this Court in Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee [2010 (6) Mh.L.J.401]. Therefore, in our view, the impugned orders cannot be sustained and the same deserve to be quashed and set aside.

6 We accordingly dispose of the writ petition by passing following order:

ORDER

- (I) Impugned order, i.e the order dated 15th February 2013 passed by respondent No.2 is quashed and set aside;
- (II) Impugned order dated 13th November 2013 passed by respondent No.3-Mahanagar Parivahan-Mahamandal Ltd. terminating the services of petitioner is quashed and set aside;
- (III) Respondent No.2-Committee is directed to give validated certificate to the petitioner that he belongs to "Mahadev Koli" caste within a period of four weeks from today;
- (IV) Within a period of four weeks from the date of receipt of certificate, respondent No.3 is directed to reinstate the petitioner in service with all consequential benefits;
- (V) Civil Application No.3023 of 2013 is disposed of.

[SURENDRA P.TAVADE, J.]

[RANJIT MORE, J.]