

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10606 of 2019**

Mr. Hemant Harischandra MandhalkarPetitioner
versus
Union of India and ors.Respondents

Mr. V. A. Nagrani, advocate for the petitioner.
Mr. A. D. Shetty i/b. Mr. Aniruddha A. Garge, advocate for respondents.

**CORAM : RANJIT MORE &
M. S. KARNIK, JJ.**

DATE : 21st NOVEMBER, 2019.

P. C. :

1. Heard learned counsel appearing for the respective parties.
2. The petitioner, by filing this petition under Article 226 of the Constitution of India is challenging the order dated 14th August, 2019, passed by the Central Administrative Tribunal ("CAT") in original application No. 210/00572/2019 and also charge-sheet dated 23rd May, 2019.
3. The petitioner claims belonging to Halba caste. Accordingly, he obtained caste certificate and on the basis of said caste certificate, he was appointed by respondents on the post reserved for Scheduled Tribe. Respondent No.4, thereafter, called upon the petitioner to produce caste

validity certificate by letter dated dated 29th October 2018 and subsequent reminders dated 15th November 2018, 28th December 2018, 17th January 2019, 27th March 2019, 8th April 2019. and 8th May 2019. The petitioner failed to produce the caste validity certificate and, therefore, departmental enquiry was initiated against him. The sole charge against the petitioner is that he availed reservation benefit meant for Scheduled Tribe based on the said certificate and that it was obligatory on the part of the petitioner to obtain verification of the said caste certificate and he did not submit the same despite letter dated 8th May 2019 and several reminders sent earlier.

4. The petitioner, thereafter, approached CAT and filed original application No.210/00572/2019 challenging the charge-sheet. This application was dismissed by the impugned order dated 14th August, 2019 and, therefore the petitioner has approached this Court.

5. Learned counsel for the petitioner invited our attention to the provisions of Section 6(3) of 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 and submitted that that respondents were under obligation to send caste certificate to the competent caste scrutiny committee and non-submission of the caste

validity certificate by the petitioner cannot be the ground to initiate departmental enquiry. Learned counsel for the petitioner also relied upon the Office Memorandum of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training Establishment (Reservation-I) Section dated 8th April, 2019 and Circular of Government of India, Department of Revenue, Central Board of Direct Taxes dated 20th June, 2019. He submitted that since the petitioner is appointed in the year 1995, his services are required to be protected despite non-production of caste validity certificate. Learned counsel for the petitioner also pointed out that in similar case filed by one Vinod S/o. Damodhar Kumbhare in OA No.258 of 2019, the CAT stayed the departmental enquiry.

6. Learned counsel for respondent No.4, on the contrary, does not seriously dispute that it is their obligation to send petitioner's caste certificate to the competent caste scrutiny committee. He submitted that the caste certificate of the petitioner, which is available with respondent No.4 shall be sent for scrutiny to the competent caste scrutiny committee and the said caste scrutiny committee be directed to decide the validity of the petitioner's caste claim expeditiously.

7. In the light of concession granted by learned counsel for the respondents, without going into the merits of the matter, we dispose of

the petition by passing the following order :

- (1) Respondent No.4 is directed to submit the petitioner's caste certificate to the competent caste scrutiny committee for verification as expeditiously as possible and, in any case, within a period of four weeks from date of receipt of this order.
- (2) As stated above, once the caste certificate of the petitioner is submitted by respondent No.4, the competent caste scrutiny committee shall issue notice to the petitioner to remain present along with supporting documents in respect of his caste claim.
- (3) The competent caste scrutiny committee shall decide the caste claim of the petitioner as expeditiously as possible and, in any case, within a period of one year from the date of submission of caste certificate by respondent No.4.
- (4) The competent caste scrutiny committee shall decide the petitioner's caste claim independently on its own merits and this order should not be construed as expression of any opinion on merits.
- (5) The competent caste scrutiny committee thereafter shall communicate its decision to the petitioner and respondent No.4
- (6) The departmental enquiry initiated against the petitioner on account of his failure to produce the caste certificate shall not be proceeded with.

9. In the light of the above, the impugned order does not survive for consideration and the same is quashed and set-aside. Consequently, the original application No. 210/00572/2019 also stands disposed of.

8. The writ petition stands disposed of.

[M. S. KARNIK, J.]

[RANJIT MORE, J.]