

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6009 OF 2019

(Inamdar Mohd. Afzal Gulam Basit vs. Zilla Parishad, Akola and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri R.D. Karode, Advocate for petitioner.
Shri K. Malokar, Advocate for respondent no.1.
Ms. R. Kalia, Assistant Government Pleader for
respondent no.2.

CORAM : R.K. DESHPANDE AND
MILIND N. JADHAV, JJ.

DATED : DECEMBER 18, 2019

The petitioner was appointed as Shikshan Sevak on 20/5/2006 for the period of three years, which he completed on 20/5/2009. There is no dispute that the petitioner was paid the salary for this period. The petitioner was thereafter continued on the post and it is the case of the respondent Zilla Parishad that till February 2019, entire salary has been paid to the petitioner, though the petitioner disputes it.

2) The appointment of the petitioner was against the post reserved for Scheduled Tribe category. On the basis of the caste certificate submitted by the petitioner showing that he belongs to "Bhaina" (Scheduled Tribe), his appointment was

made. The caste claim of the petitioner was pending and it was not decided by the Scrutiny Committee and hence, Writ Petition No.1734/2014 was filed by the petitioner before this Court. It was disposed of by this Court on 6/5/2015 and the operative portion of the order is reproduced below :

“Hence, for the reasons aforesaid, the Writ Petition is partly allowed. The Zilla Parishad is directed to send the relevant papers in respect of the caste claim of the petitioner to the respondent no.2 Committee within a period of one month from the date of receipt of the same from the petitioner. The petitioner is directed to submit the necessary papers to the Zilla Parishad within a period of three weeks. The respondent no.2 Committee is directed to decide the caste claim of the petitioner within a period of one year from the receipt of the same. The services of the petitioner are protected till his caste claim is decided.

Order accordingly. No costs.”

3) According to the petitioner, the original caste certificate was delivered by him to the employer and that is lost. The petitioner did not comply with the requirement of submitting all the documents as was observed in the order dated 6/5/2015 reproduced above. Even after that, one

more Writ Petition bearing No. 1406/2017 was filed by the petitioner in which protection from service was granted by this Court by interim order dated 8/3/2017, subject to the condition that the petitioner supplies necessary documents to respondent no.1. It seems that for the first time on 11/7/2018, the petitioner applied for getting the caste certificate afresh. Now, the service of the petitioner is terminated for the failure to submit caste validity certificate and hence, such order is the subject matter of challenge in this petition.

4) In our view, the conduct of the petitioner disentitles him to get any relief from this Court. Though petitioner was appointed against the post reserved for Scheduled Tribe candidate, he did not cooperate either with the Zilla Parishad or with the Scrutiny Committee to furnish the necessary documents. The petitioner does not want his caste claim to be decided by the Scrutiny Committee. In such a situation, we do not find any fault in the impugned action taken by the Zilla Parishad.

At the instance of the petitioner, we passed an order on 22/10/2019 directing Divisional Commissioner to withhold the salary of the Chief Executive Officer, Zilla Parishad, Akola. Hence, the petition is dismissed with costs of rupees ten thousand to be paid by the petitioner to the Chief

Executive Officer, Zilla Parishad, Akola. The amount deposited by the Chief Executive Officer, Zilla Parishad, Akola shall be appropriated towards funds of High Court Legal Services Sub-Committee, Nagpur.

Unless the petitioner produces a certificate from the Chief Executive Officer, Zilla Parishad, Akola regarding payment of costs of rupees ten thousand, the Scrutiny Committee shall not proceed to decide the caste claim of the petitioner on merits.

JUDGE

JUDGE

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