

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

WRIT PETITION (STAMP) NO.10112 OF 2020

HIRALAL DHARMA SAINDANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr.Amol R. Joshi Advocate and Mr. Devang R. Deshmukh
Advocate for Petitioner.
Mr.S.N. Kendre, A.G.P. for Resp. Nos. 1 to 4.
Mr.H.P. Kshirsagar Advocate for Resp. No.5.
...

**CORAM: SUNIL P. DESHMUKH AND
B.U. DEBADWAR, JJ.**

DATE : 3rd JULY, 2020

ORDER :

1. Heard learned counsel for the parties.
2. After hearing learned counsel, it transpires that petitioner is working since 1998 as primary teacher continuously without any interruption. Petitioner belongs to scheduled tribe category and certificate to that effect has been issued by executive magistrate, Jalgaon. The validation of said certificate is pending before tribe scrutiny committee and is yet not decided.

3. In the meanwhile, referring to government resolution dated 21st December, 2019, without taking into account petitioner's case and for that matter without hearing the petitioner, it appears that impugned communication dated 26th February, 2020 has been issued purporting to put petitioner on supernumerary post for 11 months or till his superannuation, whichever occurs earlier.

4. It appears that such communication has been issued abruptly to the petitioner without giving any opportunity of hearing.

5. Learned counsel Mr. Joshi appearing for petitioner draws our attention to order dated 16th June, 2020 passed in Writ Petition (Stamp) No.10732 of 2020 (Shivkant Gangadhar Ijjapwar vs. the State of Maharashtra and others), which according to him, is passed in similar circumstances.

6. We deem it appropriate to follow the suit. As such, impugned communication dated 26th February, 2020 issued by chief executive officer, zilla parishad, Jalgaon, is set aside, being issued without following principles of natural justice.

7. The respondent authority, if they purport to take any action of putting petitioner on supernumerary post or otherwise, shall issue notice to the petitioner giving opportunity to show cause. In that event, petitioner can file reply and bring all the relevant facts to the notice of respondent authority.

8. In the meanwhile, tribe scrutiny committee may proceed further with the pending proceeding of validation of tribe claim of the petitioner and decide the same as early as possible.

9. Petitioner to appear before tribe scrutiny committee on 10th August, 2020.

10. With aforesaid directions, writ petition stands disposed of.

(B.U. DEBADWAR, J.)

[SUNIL P. DESHMUKH, J.]