

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 2170 OF 2016

Mahesh S/o Prabhakar Jangam .. Petitioner
Vs
The State of Maharashtra and another .. Respondents

Mr.Iqbal Ahmed Siddiqui with Gauri Digambar Dhale, for the
Petitioner.

Mr.R.S.Pawar-Addl. Government Pleader, for Respondent No.1.

Mr.G.S.Hegde, for Respondent No.2.

***CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.***

Date : 17 February 2020.

P.C. :

By this Petition, the Petitioner has challenged the order dated 3 December 2015 by Respondent No.2-Maharashtra State Regional Transport Corporation terminating the services of the Petitioner as well as reversion from his post.

2. The Petitioner came to be appointed on 24 December 1981 in the services of Respondent No.2-Corporation. Thereafter the Petitioner was promoted as a Traffic Controller in the year 1997. One more promotion was sought by the Petitioner to the post of Assistant Traffic Inspector. Respondent No.2, the employer

questioned the caste status of the Petitioner and having found that earlier promotion was in the category of 'Beda Jangam' a Scheduled Caste but Petitioner then having asserted as 'Jangam (Other Backward Class)' the State Corporation proceeded to pass the impugned order relying on section 10(1) of the Maharashtra Scheduled Caste, Scheduled Tribe / Denotified Tribe Vimukta Jati, Nomadic Tribe, Other Backward Class and Special Backward Category (Regulation of issuance of Verification of Caste Certificate) Act, 2000.

3. The first contention of the Petitioner is that the assertion in the impugned order that when the Petitioner was appointed on the post of driver he had produced certificate of Beda Jangam is incorrect as the Petitioner was appointed on compassionate basis. This position has been controverted by Respondents by filing an affidavit in reply. We have been shown the roster wherein against Petitioner's name the entry is of Scheduled Caste. Even in the Service Book of the Petitioner, the entry is of Beda Jangam (Scheduled Caste) along with Jangam (OBC). In light of this disputed position we had called upon the Petitioner to demonstrate as to how the Petitioner's appointment can be termed as on compassionate basis and without reference to any caste status. The learned Counsel for the Petitioner conceded that there is no such documentary evidence except assertion in the Petition. The appointment orders are on record. They do not mention that the Petitioner has been appointed on compassionate

basis. In view of this position we are unable to accept the mere assertion that the Petitioner's initial appointment was without any reference to any caste status and purely on compassionate basis.

4. The second aspect is of the Petitioner's promotion in the year 1997. It is not in dispute that the Petitioner had sought promotion and was granted promotion on the basis of the caste certificate of Bada Jangam (Scheduled Caste). When called upon the Petitioner had produced certificate of Jangam, (other backward class). Therefore, the action of the Respondent-employer based on the fact that the Petitioner obtained the benefit of belonging to Scheduled Caste fraudulently, has to be accepted. Thus, the position is that the Petitioner took benefit as person belonging to Scheduled Caste but when called upon has produced certificate of as belonging to other backward class. In view of the law laid down by the Supreme Court in the case of *Chairman and Managing Director FCI and Ors. vs. Jagdish Balaram Bahira and others in Civil Appeal No.8928 of 2015 (with other Appeals)* no fault can be found with the action of the Respondents. The Supreme Court has observed that no sympathy can be shown to those who fraudulently obtain such benefits.

5. Writ Petition is rejected.

M.S.KARNIK, J.

NITIN JAMDAR, J.