

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

WRIT PETITION NO.2457 OF 2017

(Sunil s/o Subramani Tadam Vs. The District Social Welfare Officer, Zilla Parishad,
Buldhana and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Abdul Subhan, Advocate h/f S.R. Ghatole, Advocate for Petitioner.
Shri A.M. Joshi, AGP for Respondent No.1.
Shri Tejas Deshpande, Advocate for Respondent Nos.2 & 3.

CORAM: RAVINDRA V. GHUGE AND
S.M. MODAK, JJ.

DATE: 13th FEBRUARY, 2020.

1] We have perused the order dated 24.04.2017
passed by this Court which reads as under:

Heard.

*It is the contention of the petitioner that
though his initial appointment is against an
open post and though the petitioner is not
insisting upon his claim seeking benefit of
belonging to Scheduled Tribe, his salary has
been stopped for not getting his caste claim
validated.*

*In that view of the matter, issue notice
returnable after Vacation.*

*Mr. C.A. Lokhande, learned A.G.P.
waives service on behalf of respondent no.1.*

*Hamdast is granted for service upon
respondent nos. 2 and 3.*

*By way of ad interim order, the
respondents are directed not to take any*

coercive steps against the petitioner on the ground of non-submission of Validity Certificate and they are further directed not to withhold the salary of the petitioner on the said ground.

2] The learned Advocate for the petitioner has made three categorical statements before us, which we have recorded as order:-

- (a) The petitioner was never appointed to the reserved category post of “Cook Maid” when he joined duty on 01.08.1989 and he was granted promotion as a “Cook” on account of the retirement of Smt. Kesribai Adhav. This promotion was not on account of any reservation.
- (b) He would be attaining the age of superannuation in March 2021 (March Two Thousand Twenty One).
- (c) He would not claim any benefits available to the reserved category to which he belongs in view of his Tribe Mannewar Scheduled Tribe.

3] The learned AGP submits that the record of respondent Nos.2 and 3 creates a picture that the petitioner was appointed as a “Cook Maid” owing to his Scheduled Tribe category.

4] We do not find from the appointment order issued to the petitioner that he was appointed on a post,

which can be said to be reserved for the Scheduled Tribe.

5] Considering the above, this petition is disposed off and respondent No.1 is directed to consider the case of the petitioner by causing an enquiry as is permissible in law. Respondent No.1 shall find out as to whether the appointment of the petitioner was to a post reserved for any backward category. The report of the enquiry shall be prepared by respondent No.1 and based on his findings, he shall pass an appropriate order as regards the services of the petitioner. In the event the petitioner is aggrieved by the order of the first respondent, he would be at liberty to the avail of a remedy as may be permissible in law.

6] The first respondent shall conclude the enquiry after affording a reasonable opportunity of hearing to the petitioner as well as the respondent school and shall take a decision on or before 30.06.2020.

7] The petitioner as well as the representative of respondent Nos.2 and 3 shall appear before respondent No.1 on 02.03.2020.

8] The *ad-interim* protection granted by this Court on 24.04.2017 shall continue until 30.06.2020 or till respondent No.1 passes an order, whichever is earlier.

(S.M. Modak, J.)

(Ravindra V. Ghuge, J.)