

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

WRIT PETITION NO.4331/2017

Shivnarayan s/o Baburao Mahale

Vs.

Municipal Council, Chikhali, district Buldhana.

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

 Shri G.G.Mishra, Advocate for petitioner.
 Shri S.A.Chaudhari, Advocate for respondent.

CORAM : A.S.CHANDURKAR and VINAY JOSHI, JJ.

DATE : January 28, 2020.

Rule. Heard finally with the consent of learned counsel for the parties.

The petitioner was appointed on the post of 'Assistant Teacher' on 29.09.1987. In his service book, the petitioner was shown as belonging to 'Rajput Bhamta'. Accordingly the respondent forwarded the petitioner's proposal for due verification which came to be returned by the Scrutiny Committee at Akola. In view of establishment of the Scrutiny Committee at Buldhana, the claim of the petitioner was accordingly forwarded to the said Committee. The Municipal Council, Chikhali, on 07.06.2017 issued a notice to the petitioner to submit his validity certificate. After the proceedings were referred to the Scrutiny Committee, it informed the Chief Officer, Municipal Council, Chikhali, on 19.06.2017 that as it appeared that the petitioner was appointed on a post which was not reserved, it was not necessary to verify his caste claim. In these circumstances, the petitioner has approached this Court.

It is seen that on one hand the petitioner's caste claim was forwarded by the Municipal Council to the Scrutiny Committee for due verification and on the other hand that claim has been returned by observing that the petitioner's appointment appears to have been made on an unreserved post i.e. in the open category. In that view of the matter, the following order would serve the ends of justice :

(i) The communication dated 07.06.2017 issued by the Chief Officer, Municipal Council, Chikhali, is set aside on the ground that it was issued without proper notice to the petitioner.

(ii) The Chief Officer, Municipal Council, Chikhali, shall grant an opportunity of hearing to the petitioner to determine the post on which the petitioner was appointed. If it is held that the petitioner was appointed on a reserved post, the Municipal Council shall take further steps to refer the caste claim of the petitioner to the Scrutiny Committee.

(iii) In the meanwhile, the services of the petitioner shall stand protected.

With these directions, the writ petition stands disposed of. Rule accordingly. No orders as to costs.

JUDGE

JUDGE