

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

WRIT PETITION NO. 3283 OF 2021

Rajesh Laxminarayan Madhekar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. D. P. Palodkar, Advocate for the Petitioner.

Mr. A. R. Kale, AGP for Respondent Nos. 1 to 3.

Smt. Anjali Bajpai-Dube, Advocate for Respondent Nos. 4 and 5.

**CORAM : S. V. GANGAPURWALA &
 R. N. LADDHA, JJ.**

DATED : 02nd September, 2021.

PER COURT:-

- . The petitioner is appointed from the Scheduled Tribe category.
2. The petitioner is employee of the respondent No. 4/Aurangabad Municipal Corporation. The employer has placed the petitioner on supernumerary post on the ground that validity certificate is not yet submitted. Same is assailed in the present writ petition.
3. Mr. Palodkar, the learned counsel for the petitioner submits that, the proposal is forwarded by the Municipal Corporation to the Scrutiny Committee for validation of the tribe claim of the petitioner in the year 2014. The matter is pending with the Committee. The Committee has

also communicated the factum of pendency of the validation proceeding, still the corporation has placed the petitioner on supernumerary post.

4. Mrs. Dube, the learned advocate for respondent Nos. 4 and 5 submits that, the petitioner is appointed from the Scheduled Tribe category. He is required to submit the validity certificate within six months. The validity certificate is not yet submitted. In view of that and also in view of the judgment of the Apex Court in the case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others reported in 2017(8) SCC 670, the Corporation has rightly placed the petitioner on supernumerary post.

5. The learned Assistant Government Pleader upon instructions from the Committee confirm that validation proceeding of the petitioner is pending with the Committee.

6. To get the proceeding decided within stipulated period is not in the hands of a litigant. It is submitted that in some of the matters vigilance has been conducted and in some of the matters vigilance is not conducted. Until the copy of vigilance report is served upon the petitioner, the petitioner would not have any role to play in the validation proceeding.

7. In view of the fact that, the validation proceeding is still pending before the Committee and it does not appear that the petitioner is responsible for delay in deciding validation proceeding, we pass following order.

O R D E R

- A. The impugned communication is quashed and set aside.
- B. The scrutiny committee shall decide the validation proceeding in respect of tribe claim of the petitioner on its own merits, expeditiously and preferably within a period of six (06) months from the date of the appearance of the petitioner.
- C. The petitioner shall appear before the Committee on 04th October, 2021.
- D. The petitioner shall co-operate in expeditious disposal of the validation proceeding before the Scrutiny Committee.
- E. The employer may take further course of action depending upon the judgment that would be delivered by the Committee in the validation proceeding of the petitioner.
- F. The writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.