

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

WRIT PETITION NO.11389 OF 2016

Shri.Sunil Shivaji Sugare

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Mahendra N. Sandhyanshiv for the Petitioner.

Mr.V.M. Mali, AGP for Respondent-State.

Mr.Anand S. Kulkarni for Respondent No.3 and 4.

**CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.**

DATE : 23 March 2021

P.C.

. The Petitioner has sought a direction to the Respondents to grant continuity of service from the date of termination dated 26 July 2000 till the reinstatement on 9 December 2004.

2. The Petitioner was appointed as a Primary Teacher with Respondent Nos.3 and 4-Management/School. The Petitioner's services were terminated on 26 July 2000 as his caste certificate was invalidated. The Writ Petition No.5274 of 2000 Petition filed by the Petitioner challenging the invalidation was dismissed. Thereafter the Petitioner sought protection of his services in the light of Government Resolution dated 15 June 1995. Since it was not granted, the Petitioner filed Writ Petition

No.471 of 2003 which was dismissed. Thereafter, the Petitioner sought a certificate as belonging to Special Backward Class. The Petitioner was taken in service on 8 December 2004. The Petitioners now seek continuity of service.

3. In the light of the mandatory process of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulations of Issuance and Verification of) Caste Certificate Act, 2000 as emphasised in the decision of the Apex Court in the case of *Food Corporation of India V/s. Jagdish Balaram Bahira*¹ such the reinstatement itself is doubtful, further, when the petition No.471 of 2003 was rejected, it is doubtful whether the petitioner could have been taken back in service. No order to that effect can now be passed but it can certainly be considered for correctness of the order not considering the period as continuous period on duty. A reasoned order is passed not considering the period between 26 July 2000 to 9 December 2004 as period on duty and, only salary and pensionary benefits have been disallowed. There is no illegality in the order.

4. In the circumstances, no case is made out for interference in writ jurisdiction. The Writ Petition is dismissed.

(C. V. BHADANG, J.)

(NITIN JAMDAR, J.)

¹ 2017 (8) SCC 670