

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

WRIT PETITION NO.210/2018

Reena Pratapsingh Thakur

..Versus..

The State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. S.P. Bhandarkar, Advocate for the petitioner.

Mr. S.M. Ukey, Additional Government Pleader for respondent Nos.1, 2
and 5.

Mr. P.S. Patil, Advocate for respondent Nos.3 and 4.

**CORAM : DIPANKAR DATTA, C.J. &
VM. DESHPANDE, J.**

DATE : JULY 27, 2021

1. This is the second round of litigation at the instance of the petitioner.
2. Earlier, the petitioner had presented Writ Petition No.3432/2004 before this Court challenging an order of termination from service dated 8th July, 2004. It was passed by the respondent no.4/school, where the petitioner was employed as a teacher, on the ground that she had not submitted the caste validity certificate. Incidentally, the petitioner was appointed as such teacher in the school on a post earmarked for candidates belonging to V.J. N.T. category. It was claimed by the petitioner that she belongs to *Rajput Bhamta* community. A caste certificate dated 1st August, 1992 issued by the Executive Magistrate, Buldhana was

produced by the petitioner in support of such claim.

3. Writ Petition No.3442/2004 was considered by a coordinate Bench of this Court on 1st August, 2005. Having heard learned advocates for the parties, the Court found that the caste certificate dated 1st August, 1992 had not been referred by the management of the school to the competent Caste Scrutiny Committee and, as such, there had been no verification of the caste status of the petitioner. The Court was further of the view that in the absence of verification of such caste status, the management of the school ought not to have terminated the petitioner's service. The order of termination was, accordingly, set aside. The management of the school was directed to refer the caste certificate of the petitioner to the competent Caste Scrutiny Committee for verification. Liberty was also granted to take a decision in respect of the employment of the petitioner after a decision was given by the Caste Scrutiny Committee. With such observations, the writ petition stood disposed of.

4. The management of the school proceeded to terminate the service of the petitioner once again by an order dated 28th December, 2017, which is the subject matter of challenge in this writ petition.

5. According to Mr. Bhandarkar, learned advocate for the petitioner, the orders of termination is in the teeth of the order dated 1st August, 2005 passed by the coordinate Bench. He contends that there has been no substantial change in the

factual scenario inasmuch as the caste status of the petitioner has not been invalidated by the competent Caste Scrutiny Committee. Mr. Patil, learned advocate appearing for the management of the school, however, submits that in 2003, the management had referred the caste status of the petitioner to the Caste Scrutiny Committee but no decision was given by such Committee; in any event, *Rajput Bhamta* community having been excluded from the list of Scheduled Castes, Scheduled Tribes and Other Backward Classes in the State of Maharashtra, the management of the school was of the opinion that the petitioner did not have any right to be appointed on the post of teacher reserved for the V.J. N.T. category and consequently, no right to continue in service. The order of termination, therefore, was rightly passed.

6. Having heard Mr. Bhandarkar and Mr. Patil, as well as Mr. Ukey, learned Additional Government Pleader, we are of the considered opinion that the validity of the order of termination has to be decided bearing in mind the order dated 1st August, 2005 of the coordinate Bench referred to above. Once the termination order dated 8th July, 2004 was set aside by the Court on the ground that the management of the school had acted beyond its jurisdiction without the competent Caste Scrutiny Committee having invalidated the caste status of the petitioner, the management of the school without such a decision being given by the said Committee could not have terminated the service of the petitioner once

again by the order dated 28th December, 2017. We hold the action of the management of the school to be illegal. However, such finding would not automatically result in setting aside of the order of termination. Interests of justice, in our further considered view, would be sufficiently served if the competent Caste Scrutiny Committee is directed to proceed in accordance with law by verifying the caste status of the petitioner and to give its decision upon conducting such verification as it may consider fit and proper as well as hearing the petitioner and the other necessary parties. It is ordered accordingly. Let the Caste Scrutiny Committee give its decision on the caste status of the petitioner as early as possible but not later than six months from date of receipt of a copy of this order.

7. In the event, the Caste Scrutiny Committee validates the caste certificate dated 1st August, 1992, the order terminating the service of the petitioner dated 28th December, 2017 shall stand annulled and the petitioner would be entitled to resumption of service together with continuity in service, however, without any arrears of financial benefits. On the contrary, if the caste status of the petitioner is invalidated by the competent Caste Scrutiny Committee, the order of termination passed by the management of the school would stand. In such an event, the petitioner shall be at liberty to pursue such remedy as is available to her in law.

8. In terms of the order dated 1st August, 2005, the

management of the school was directed to refer the caste status of the petitioner to the Caste Scrutiny Committee. Although we have recorded the contention of the management of the school that the caste status of the petitioner was referred to the Caste Scrutiny Committee in 2003, as and by way of abundant caution, we direct the management to refer the caste status of the petitioner once again within a period of a fortnight. The petitioner shall also seek validation of her caste status within the above period.

9. With the aforesaid directions, this writ petition stands disposed of. There shall be no orders as to costs.

(V.M. DESHPANDE, J.)

(CHIEF JUSTICE)