

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4458 OF 2021

Munawrkha Mehmod Alikh ... **Petitioner**
 Urf Akbar Kha Pathan
 Age 56 years, Occu: Service,
 R/o Saudagar Mohalla, Pathari,
 Tq. Pthri, District Parbhani

VERSUS

- | | | | |
|----|---|-----|--------------------|
| 1. | Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Through its Member Secretary | | |
| 2. | Divisional Controller,
Maharashtra State Road
Transport Corporation, Parbhani
Taluka and District Parbhani | ... | Respondents |

Mr. Sagar S. Phatale, Advocate for the petitioner,
Mr. S.R. Yadav-Lonikar, AGP for respondent No.1
Mr. A. B. Dhongade, Advocate for respondent No.2

CORAM : A.S. GADKARI & S. G. MEHARE, JJ.
DATE : 10th February, 2022

JUDGMENT:

1. Rule. Rule made returnable forthwith.

With the consent of learned counsel for respective parties,
petition is taken up for final hearing.

2. It is the case of petitioner that, he was working as Driver with respondent No.2. He got employment with respondent No.2 in Scheduled Tribe category. After joining services with respondent No.2,

in the year 1994-95 itself he submitted his caste certificate along-with other necessary and relevant documents to respondent No.2 for its validation, however, the said documents were misplaced by respondent No.2 at its own. The said fact was realized by the petitioner in the year 2019 when a show cause notice was issued to him, as to why his service be not terminated for want of caste validity certificate. Petitioner then realized that, there is a mess committed by the Officers of respondent No.2 in forwarding his proposal to respondent No.1 for validation of his tribe claim.

In this precise background, the services of the petitioner have been terminated by respondent No.2 by issuing letter dated 09.12.2019 with effect from 10.12.2019.

3. By Order dated 11.03.2021, this Court had directed the petitioner to submit a fresh proposal for verification of his caste claim with respondent No.1 Committee and it has been now informed by learned AGP that, such proposal has been filed by the petitioner within period stipulated by the said Order. Learned AGP further submitted that, respondent No.1 committee will complete the proceedings of caste verification of the petitioner within a period of six months from today.

The said statement is accepted.

4. It appears to us that, validation proceedings with respect to the caste claim of the petitioner could not be completed due to

misplacement of papers of the petitioner by respondent No.2 and the petitioner is not at fault in not getting the ultimate result of validation proceedings of his caste claim within stipulated period. As a result thereof, the validation proceedings of the caste claim of the petitioner is now pending before respondent No.1-Committee.

5. Learned counsel for the petitioner submitted that, unless and until vigilance is conducted and respondent No.1 Committee adjudicates the caste claim of the petitioner, the petitioner has no role to play in the said scenario. It is now well settled that, it is not in the hands of litigants to get validation proceedings decided within stipulated period.

However as noted earlier, learned AGP, on instructions, made a statement that, the validation proceedings will be decided within a period of six months from today.

6. In view of above, we pass following order:

ORDER

- i. Impugned order dated 09.12.2019 passed by respondent No.2 is quashed and set aside.
- ii. Respondent No.2-MSRTC shall reinstate the petitioner in the services on his original position which he was occupying on the day of his termination.
- iii. Petitioner is given continuity in service.

- iv. Petitioner shall not be entitled for back wages for the period from 10.12.2019 till reinstatement i.e. till today.
- v. Respondent employer shall reinstate the petitioner with immediate effect.
- vi. Respondent No.1 Committee shall decide the proceedings of validation of caste certificate of the petitioner expeditiously and in any case within a period of six months from today.
- vii. Depending upon the result of caste validation proceedings before respondent No.1 Committee, respondent No.2 may take further course of action as may be permissible in law.
- viii. Rule is made absolute in the aforesaid terms.
- ix. No order as to costs.

(S. G. MEHARE, J.)

(A.S. GADKARI, J.)

JPC