

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.4058 OF 2022**

Dipak s/o Hanmalu Aashmod,
Age: 27 years, Occu.: Service,
R/o. Near Gandhi Chowk, Lohar Galli,
Tq. Biloli, Dist. Nanded. ..Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
State Excise Department,
Mantralaya, Mumbai-32.
2. The Commissioner,
State Excise, Maharashtra State,
Mumbai.
3. Joint Commissioner (Administration),
State Excise, Maharashtra State,
Mumbai.
4. Superintendent of State Excise,
Jilha Peth, Jalgaon,
Tq. and Dist. Jalgaon.
5. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate,
Verification Committee, Kinwat,
Headquarter Aurangabad,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad. ..Respondents

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Mr. C. R. Thorat, Advocate for the Petitioner.
Mr. K. N. Lokhande, AGP for Respondent Nos.1 to 5.

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**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 05th APRIL, 2022.

PER COURT:-

1. Rule. Rule is made returnable forthwith.
2. Mr. Lokhande, learned A.G.P. for all respondents waives notice.
3. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned notice dated 15.03.2022 issued by respondent no.3, thereby communicating to the petitioner why his service shall not be terminated on the ground of non-submission of tribe validity certificate.
4. It is a case of the petitioner that, petitioner belongs to the 'Koli Mahadev', Scheduled Tribe. The petitioner was selected by the State Government on the post of Sub Inspector, State Excise on 20.08.2018 from the seat reserved for Scheduled Tribe category. On 01.01.2020, the proposal for verification of his tribe claim has been submitted to respondent no.5-Committee. The said claim is still pending before respondent no.5-Committee. During the pendency of the said claim, respondent no.3, however, issued show cause notice on 15.03.2022 calling upon to show cause as to why action of termination shall not be taken against the petitioner for not submitting the caste validity certificate.
5. The learned A.G.P. on instructions states that, till date there is no vigilance cell enquiry

commenced on the caste claim submitted by the petitioner. The learned A.G.P. states that, the caste claim of the petitioner would be decided within six months from today, provided petitioner co-operates with the respondent no.5-Committee.

6. The learned counsel for the petitioner undertakes that, his client would co-operate with respondent no.5-Committee in disposing of the caste claim submitted by his client within a stipulated period. The undertaking is accepted.

7. In view of the fact that, caste claim of the petitioner is still pending before respondent no.5, the respondent no.3 shall not proceed with the show cause notice dated 15.03.2022 and shall not take any coercive steps against the petitioner for not producing caste validity certificate.

8. The petitioner is directed to remain present before respondent no.5-Committee on 18.04.2022 at 11.00 am without fail. The respondent no.5-Committee shall take further course of action on 18.04.2022. The petitioner shall co-operate with the respondent no.5-Committee on 18.04.2022 and till the caste claim submitted by the petitioner is decided by the respondent no.5-Committee.

9. In view of the directions issued by this Court in earlier order, the respondents cannot be

allowed to proceed with the show cause notice dated 15.03.2022 and the same is accordingly quashed.

10. The order that would be passed by respondent no.5-Committee shall be conveyed to the petitioner within one week from the date of passing order. If the order is in favour of the petitioner, the respondent no.5 shall issue caste validity certificate in favour of the petitioner as claimed within one week from the date of passing such order. In that event, the petitioner shall submit the copy of such caste validity certificate to respondent no.3 within one week thereafter.

11. If the order that would be passed by respondent no.5 is against the petitioner, no coercive steps shall be taken by any of the respondents against the petitioner for a period of four weeks from the date of communication of the order. If the petitioner does not challenge such order rejecting caste claim of the petitioner within a period of four weeks and does obtain any stay against the respondents, respondents shall be at liberty to take appropriate action against the petitioner in so far as employment of the petitioner is concerned on the ground that the petitioner not submitted the caste validity certificate.

12. Writ Petition is allowed in the aforesaid terms.

13. Rule is made absolute accordingly. No Order as to costs.

14. Parties to act on authenticated copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

Devendra/April-2022