

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

67 WRIT PETITION NO.6261 OF 2022

MANKARNABAI VISHNU SONWANE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

Mr. D. R. Irale Patil, Advocate for the  
petitioner  
Mr. S. P. Tiwari, AGP for the respondents/State  
Mr. S. S. Tope, Advocate for respondent Nos. 1  
and 2

CORAM : RAVINDRA V. GHUGE &  
ANIL L. PANSARE, JJ.

DATE : 27<sup>th</sup> June, 2022

P. C.

1. The petitioner is widow of an employee of Zilla Parishad, Jalna who has passed away during the covid pandemic on 28-10-2020. He was selected as a Primary School Un-trained Teacher on 10-09-1986 and subsequently he became an Assistant Teacher. His induction in service was on account of his claim of belonging to 'Malhar

Koli' tribe and clause 7 of his appointment order dated 04-09-1986 clearly indicates that though he was not having requisite qualification, he was recruited in service only with the object of the department of clearing the backlog of reservation.

2. His claim has been invalidated by the committee and the petitioner has, therefore, approached this court in writ petition No.15116/2019. By way of an ad-interim relief, respondents were directed not to take adverse action against the petitioner only on the ground that his claim was invalidated.

3. The learned advocate for the petitioner submits that he is covered by the judgment delivered by the learned Division Bench of this

court (Coram: The Chief Justice and Mangesh S. Patil, JJ) dated 01-10-2021 in writ petition No. 4624/2021 (Kamalbai Shaphadu Salve Vs The State of Maharashtra and others) and an order passed by this court on 24-06-2022 in writ petition No. 6348/2022 (Latabai Anil Padalkar Vs State of Maharashtra and others).

4. The learned advocate Mr. Tope is justified in canvassing that the petitioner's case is not covered by the two orders referred to by him since, in Kamalbai Salve (supra), the claim was not yet invalidated. Therefore, assuming that the petitioner was alive and if the scrutiny committee had invalidated his tribe claim he would have exposed himself for criminal prosecution. In writ petition No.6348/2022, this court noted that the biological brother had also

received a caste validity certificate and the claim of the deceased was yet to be adjudicated.

5. In the instant case, said claim has been invalidated. Unless the petitioner-widow succeeds in the petition filed by her husband, she would not be entitled for relief as set out in prayer clause-B and C which read as under:-

B] The Hon'ble Court may be pleased to pass necessary order & quash and set aside the conditions imposed in the impugned order dated 19-07-2021 passed by respondent Nos. 2 and 3, to produce Caste Validity Certificate of her deceased husband namely Vishnu Sonowane to release the amount of gratuity and final order of Family pension and by issuing a writ of mandamus or a writ in like nature direct the respondents to release the amount of gratuity Rs. 14.00 Lakhs with interest and regular family pension from 29-10-2020.

C] Quashing & setting aside the conditions imposed for production of caste validity certificate of the deceased Vishnu Sonowane in impugned

order dated 19-07-2021 passed by the respondent Nos. 2 and 3 and grant identical relief granted in writ petition NO. 4624/2021 and direct the respondents to release the amount of gratuity Rs. 14.00 lakhs with interest and regular family pension within stipulated period as found just and proper.

6. The learned advocate for the petitioner submits that this petitioner may be permitted to withdraw this petition and she would pursue writ petition No. 15116/2019 filed by her husband.

7. In view of the above, this petition is disposed off as withdrawn, on instructions, with liberty to seek retiral service benefits in the event she succeeds in the pending petition.

[ANIL L. PANSARE, J.]

[RAVINDRA V. GHUGE, J.]