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

WRIT PETITION NO. 9606 OF 2021

Vidya Shyam Nikalje

...Petitioner

V/s.

State of Maharashtra, through
Secretary, Tribal Development
Department & Ors.

...Respondents

Mr. R. K. Mendadkar for the petitioner.

Mrs. R. A. Salunkhe, AGP for respondent nos. 1 & 2/State.

**CORAM: DIPANKAR DATTA, CJ &
V. G. BISHT, J.**

DATE: APRIL 26, 2022

P.C.:

1. A preliminary objection has been raised by Mrs. Salunkhe, learned AGP for the respondents 1 and 2 to the maintainability of this writ petition dated 11th October 2021.

2. According to Mrs. Salunkhe, the petitioner has approached this Court seeking an order for quashing of the order dated 31st August 2021 passed by the Senior Superintendent of Post Offices, Mumbai-North-West Division terminating the petitioner's service as well as for reinstatement, consequent upon such quashing. It is submitted by her that the remedy of the petitioner lies before the Central Administrative Tribunal, Mumbai at the first instance and not before this Court at this stage.

3. It is also contended by Mrs. Salunkhe that prayer (c) relates to a direction to be issued to the respondent no. 2, the Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur to decide the caste claim of the petitioner. According to her, the petitioner ought to have been well advised to move the Nagpur Bench of this Court for such relief.

4. Insofar as the jurisdiction of this Court to entertain this writ petition at this stage is concerned, we have no hesitation to hold that Mrs. Salunkhe's objection has merit. In view of the provisions of the Administrative Tribunals Act, 1985, as interpreted by the Constitution Bench of the Supreme Court in AIR 1997 SC 1125 (**L. Chandrakumar v/s. Union of India**), the remedy of the petitioner lies before the tribunal at the first instance. Liberty is, therefore, granted to the petitioner to seek quashing of the order of termination and for consequential relief before the tribunal.

5. Regarding the relief claimed against the respondent no. 2, we again hold that the submission has merit. In terms of Chapter XXXI Rule 1 of the Bombay High Court Appellate Side Rules, 1960, the petitioner ought to move the Nagpur Bench of this Court for relief claimed vide prayer clause (c).

6. On the prayer of Mr. Mendadkar, learned advocate for the petitioner, we grant liberty to the petitioner to take steps in accordance with law before the appropriate forum.

7. The writ petition stands dismissed with the aforesaid observations. No costs.

8. All contentions are left open to be urged before the appropriate forum.

(V. G. BISHT, J.)

(CHIEF JUSTICE)

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