

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

WRIT PETITION NO.2679 OF 2021

PETITIONER : Mohan Rupchand Jaitgude
Age 57 Years, Occ.-Service
R/o at post Shiwa, Tahsil Nagpur
District Nagpur.

//VERSUS//

RESPONDENTS : 1. The Chief Executive Officer,
Zilla Parishad, Nagpur.

2. District Health Officer
Zilla Parishad, Civil Lines, Nagpur.

Ms. Soniya Gajbhiye, Advocate for the Petitioner.
Shri Majid Shaikh, Advocate for Respondent Nos.1 & 2.

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.
DATE : 7th MARCH, 2022.

ORAL JUDGMENT (Per: A.S. CHANDURKAR, J.)

01] **Rule.** Rule made returnable forthwith and heard the learned counsel for the parties.

02] The petitioner claims that he belongs to 'Kalar' (OBC) and was engaged as Health Assistant with the Zilla Parishad, Nagpur. On 27.05.2021, the District Health Officer issued a communication to the petitioner calling

upon him to submit the validity certificate of belonging to 'Kahar' (NT-B) category. This was followed by another communication dated 01.07.2021 reiterating that request. According to the petitioner, he has been issued a caste certificate of belonging to 'Kalar' (OBC) and thereafter he has also been issued a caste validity certificate by the Scrutiny Committee on 20.01.2013. In the aforesaid backdrop, the petitioner has challenged the notices dated 27.05.2021 and 01.07.2021.

03] On 30.07.2021 while issuing notice in the writ petition, this Court had directed the respondents to produce the original record to indicate the circumstances in which the petitioner was appointed.

04] Today, the learned counsel for the respondents has produced for perusal the file pertaining to the service of the petitioner. He submits that the name of the petitioner was forwarded by the District Malaria Officer after which the petitioner came to be appointed. Though initially against the name of the petitioner the caste mentioned was 'Kahar', in the service book the petitioner's caste has been shown as 'Kalar'.

05] On perusing the records produced by the respondents coupled with the fact that the service book of the petitioner bears the entry 'Kalar' (OBC) and as the petitioner has now been issued a validity certificate of belonging to 'Kalar' (OBC), the notices dated 27.05.2021 and 01.07.2021 appear to have been issued in the absence of relevant material. In view of the

fact that the petitioner's service book bears the entry 'Kalar' (OBC) and as the petitioner has been issued a validity certificate by the Scrutiny Committee, the notices dated 27.05.2021 and 01.07.2021 are liable to be quashed.

06] Accordingly, the following order is passed.

ORDER

- i. The notices dated 27.05.2021 and 01.07.2021 issued by the respondent No.1 are quashed and set aside. It is clarified that as per the service book of the petitioner, he has been appointed on the post reserved for OBC category and he is entitled to benefits on that basis since he has been issued a validity certificate.

The writ petition is allowed and disposed of in aforesaid terms.

Rule accordingly. No costs.

(SMT. M.S. JAWALKAR, J.)

(A.S. CHANDURKAR, J.)

Vijay