

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

WRIT PETITION NO. 25 of 2020

Ganesh Vithoba Nagpure

vs.

Santaji Shikshan Vikas Sanstha, Nagpur through its President - Dinesh G. Wanjari and
others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.Z.Jibhkate, Advocate for petitioner.

Shri B.G. Kulkarni, Advocate for respondent nos. 1 and 2.

Shri A. M. Kadukar, Assistant Government Pleader for respondent nos. 3 and 4.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE :- AUGUST 19, 2022

Heard.

2. The petitioner has challenged the findings recorded by the Scrutiny Committee in its decision dated 20.04.2017 to the effect that the claim of the petitioner of belonging to 'Balai' Scheduled Caste was invalid and he was not entitled to any declaration of belonging to that caste.

3. The petitioner pursuant to an advertisement issued by the respondent nos. 1 and 2 sought appointment on the post of 'Assistant Teacher' by claiming he belonged to 'Balai' Scheduled Caste. He was accordingly appointed on probation from 01.09.1993. He was thereafter confirmed in service. In 2004 he was called upon to produce caste validity certificate. He submitted various documents before the Scrutiny Committee. For failure to produce such validity certificate, the petitioner's services came to be terminated by the order dated 25.09.2008 with effect from 15.10.2008. Being aggrieved the

petitioner filed an appeal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 before the School Tribunal. The School Tribunal by the judgment dated 25.03.2011 set aside the order of termination as being illegal. The School Tribunal however refused to grant any declaration as regards protection of his services based on the Government Resolution of the year 1995.

4. The petitioner by claiming that he belonged to 'Sutar' Other Backward Category (OBC) obtained a caste certificate. He approached the School where he was employed and claimed reinstatement on the post reserved for Other Backward Class category employee. The Head Master of the School on 04.01.2017 did not accept the request made by the petitioner. The petitioner thus filed petition being Writ Petition No.356 of 2017 before this Court seeking reinstatement. By the judgment dated 24.03.2017, it was observed that the School Tribunal had directed reinstatement of the petitioner in the year 2011 subject to obtaining a validity certificate. Though the petitioner was reinstated, he submitted a caste certificate of belonging to 'Sutar' OBC. In that backdrop, it was directed that the Scrutiny Committee should examine the claim of the petitioner of belonging to 'Sutar' OBC and whether any fraud was played by the petitioner while obtaining a caste certificate showing he belonged to 'Balai' Scheduled Caste. Pursuant thereto the Scrutiny Committee examined various documents referred to by the petitioner and recorded a finding that the documents of his brother indicated the caste 'Sutar'. His relative was issued

a validity certificate of belonging to 'Sutar' OBC. Despite that by changing his caste to 'Balai', the petitioner had secured employment on the basis of false information. Accordingly the Scrutiny Committee cancelled the caste certificate. Being aggrieved, the petitioner has filed the present writ petition.

5. After hearing the learned counsel for the parties we find that the Scrutiny Committee has considered all the relevant documents that were submitted by the petitioner and has thereafter concluded that though the petitioner and his blood relatives belong to 'Sutar' OBC, the petitioner had sought to raise a claim of belonging to 'Balai' Scheduled Caste by referring to his school documents. It is seen that the advertisement in question issued by the respondent nos. 1 and 2 was in the year 1993 when the petitioner was aged about 28 years. Consciously, he had sought to seek employment on a post that was reserved for candidates belonging to the Scheduled Caste category. Despite being aware of this fact, the petitioner sought to rely upon documents of 1981 wherein his caste was shown as 'Balai' in the school records. It is only on account of the caste certificate dated 08.01.1993 produced by him that the petitioner could secure employment. After attaining majority, the petitioner did not take any steps to rectify the school records and agitate his claim of belonging to 'Sutar' OBC. The Scrutiny Committee was justified in recording a finding that the caste of the blood relatives was 'Sutar' and despite that the petitioner had sought to rely upon the documents of his school to justify the claim of belonging to 'Balai' Scheduled Caste. The order passed by the Scrutiny Committee is after grant of due opportunity to him. The only

liberty that has been granted to the petitioner to seek protection in employment as per the order passed in Writ Petition No. 356 of 2017 is subject to the observations of the Scrutiny Committee. Since it has been found that the petitioner after becoming major has pursued his claim of belonging to 'Balai' Scheduled Caste and could also secure employment on that basis despite being aware of the fact that he belonged to 'Balai' Scheduled Caste, we do not find any reason to interfere with the findings recorded by the Scrutiny Committee. Those findings are based on the material relied upon by the petitioner himself. The decision in *Gajanan Marotrao Nimje vs. Reserve Bank of India* [2018 SCC Online SC 1939] that was relied upon by the petitioner does not assist his case in view of the aforesaid facts.

6. We are therefore not inclined to exercise discretion in favour of the petitioner under Article 226 of the Constitution of India. The writ petition is thus dismissed with no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..