

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.1034 OF 2023
IN WP/14380/2021
WITH
WRIT PETITION NO.14380 OF 2021**

**SHRINIWAS LIMBAJI BIRAMWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...
Advocate for the Applicant : Shri R.B. Dhakne i/by Shri Jayewar
Sainath Gangadhar
AGP for Respondents 1 and 4/State : Shri V.M. Kagne
Advocate for Respondents 2 and 3 : Shri H.V. Patil
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 27th January, 2023

Per Court :-

1. The claim of the petitioner of belonging to “Mannervarlu”, Scheduled Tribe category has been invalidated. He secured employment as a Shikshan Sevak on the basis of the said tribe certificate. The post presently occupied by the petitioner is reserved for the Scheduled Tribe category. By this Civil Application, the petitioner prays for regular pay scale as he has completed three years as Shikshan Sevak.

2. The learned advocate for respondent Nos.2 and 3 submits that the very entry of the petitioner in employment, by

virtue of his claim of belonging to “Mannervarlu”, Scheduled Tribe, is doubtful. His claim has been invalidated. The law laid down by the Honourable Supreme Court in *Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others*, (2017) 8 SCC 670, *Vijay Kishanrao Kurundkar vs. State of Maharashtra and others*, 2020 AIR (SC) 3715 : 2020 SCC Online SC 834, *Chandrabhan vs. State of Maharashtra and others*, 2021 (9) SCC 804 : 2021 (5) ALL M.R. 418 and *Chief Executive Officer, Bhilai Steel Plant, Bhilai vs. Mahesh Kumar Gonnade and others*, 2022 LiveLaw (SC) 572, would apply to the case of the petitioner.

3. In similar circumstances, this Court has protected the services of such candidates on the condition of tendering an affidavit undertaking that they would not seek increment, further pay scales, promotion and other service benefits until the challenge to the invalidation is adjudicated upon by this Court.

4. The petitioner’s service has been protected by this Court by the order dated 22.12.2021. As such, granting him salary as per the pay scale applicable to a Shikshan Sevak, would amount to rewarding him when his claim is already invalidated. As such, by continuing the ad-interim protection and by ensuring that the service of the petitioner is not terminated, he would not be entitled for any further service benefits until the petition is

decided. This Civil Application is, therefore, rejected.

5. By consent of the parties, the Writ Petition is listed for a hearing at an admission stage, on 09.03.2023.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)