

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

911 CIVIL APPLICATION NO.5974 OF 2018
IN WP/4342/2006 WITH WP/4342/2006

PADMAKAR SAHEBRAO RAJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. S. S. Phatale, h/f Mr. Vijay B. Patil.
AGP for Respondent/State: Mr. S. G. Sangle.
...

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

DATE : 06th January, 2023.

Per Court:

1. The petitioner prays for provisional pension. His claim of belonging to "Thakur" Scheduled Tribe category was invalidated by the order dated 6th May, 2006. This Court (Coram : N. V. Dabholkar and M.G. Gaikwad, JJ) passed the following order on 15th June, 2006:-

"Advocate Shri M. S. Deshmukh desires to procure the file of petitioner and oppose admission itself on the basis of earlier judicial pronouncements.

S.O. for five weeks.

Ad-interim relief in terms of prayer clauses (C) and (D) till then".

2. The petitioner relies upon a decision delivered by this Court at the Nagpur Bench in ***Writ Petition No.5706 of 2021 (Ms.***

Shalini d/o Purushottam Bokde Vs. State of Maharashtra and others).

3. Heard the learned advocates for the respective sides.

4. The view taken by this Court in ***Ms. Shalini d/o Purushottam Bokde*** (supra), is distinguishable on facts while considering its applicability to this case. In ***Ms. Shalini d/o Purushottam Bokde*** (supra), the employer did not initiate any steps until the retirement of the petitioner. Her papers for pensionary benefits were processed. On an objection raised, the employer woke up and demanded a validity certificate. For the said reason, the pensionary benefits were withheld. Hence, this court granted relief to the Petitioner.

5. In the instant case, the claim of the petitioner has been invalidated on 6th May, 2006 when he was in employment. He superannuated on 31st January, 2018. Ad-interim relief granted to the extent of staying the order of the competent committee, does not amount to setting aside his invalidation. When we suggested to the petitioner that the petition lodged on 5th June, 2006, can be listed for final hearing, the petitioner insisted on an interim order on this civil application for granting pensionary benefits.

6. Keeping 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 Supreme Court Cases 670, Vijay Kishanrao Kurundkar and Another Vs. State of Maharashtra and Others, 2020 AIR (SC) 3715, Chandrabhan Vs. State of Maharashtra and Others, 2021 (6) Bom.C.R. 610* and *The Chief Executive Officer, Bhilai Steel Plant, Bhilai Vs. Mahesh Kumar Gonnade & Ors, 2022 LiveLaw (SC) 572*, in view, this application stands rejected.

7. At this juncture, the learned advocate for the petitioner submits that the writ petition may be listed for final hearing.

8. In view of the above, list Writ Petition No.4342 of 2006 for final hearing on 27th January, 2023.

9. By consent, list Writ Petition Nos. 7041 and 7023 of 2010 alongwith Writ Petition No.4342 of 2006, for final hearing.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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