

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

WRIT PETITION NO. 3427 OF 2023

Umakant Vitthalrao Debetwar

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Ms. Komal Gaikwad i/b. R.K. Mendadkar for the Petitioner

Mr. R.P. Kadam, AGP for the Respondent - State

***CORAM : NITIN JAMDAR &
SANDEEP V. MARNE, JJ.***

DATE : 02 AUGUST 2023

P.C. :-

The Petitioner is seeking to quash and set aside the show cause notice issued by the Respondent No.3 – Zilla Parishad and for a direction to the Respondent No.2 – Scrutiny Committee to decide the caste claim of the Petitioner.

2. As regard the second prayer, the learned AGP points out that the Scrutiny Committee is at Aurangabad and therefore, for this direction the Petitioner will have to file a Petition at Aurangabad Bench of this Court. This submission is correct. Yet the Petitioner has chosen to pursue the Petition.

3. As regard the show cause notice issued to the Petitioner to produce the caste validity certificate, the learned Counsel for the Petitioner submits that the Petitioner's appointment order did not state that the Petitioner will have to produce a caste validity certificate. The learned Counsel for the Petitioner accepts that the Petitioner is occupying the post meant for the scheduled tribe but submits that in the appointment order of the year 1994 there is no reference to requirement of caste validity certificate. There is no merit in this contention.

4. After coming in force of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, it is the requirement of law that the validity certificate needs to be produced to continue to occupy the reserved category post. The impugned order itself refers to notice of the year 2017, the Petitioner's reply of 19 April 2017 and also a final show cause notice of 20 April 2022. These are references obviously to the non-production of the validity certificate. There is no error in the show cause notice issued.

5. The Writ Petition is rejected

6. We must take note of the fact that the Petitioner has been permitted to occupy the post meant for Scheduled Tribe by Respondent No.3 – Zilla Parishad since the year 1994 without the Petitioner producing the caste validity certificate. The Respondent No.3, being a public body, is under duty to ensure that the post meant for the Scheduled Tribes in its services are occupied by the genuine persons after producing the necessary caste validity certificate. It is not left to the discretion of the Respondent No.3 to decide whether to permit an employee to continue to occupy a reserved category posts without caste validity certificate, or not.

7. The learned AGP states that copy of the order will be sent to the Chief Executive Officer of the Zilla Parishad.

SANDEEP V. MARNE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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