



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6093 OF 2024
IN RAST/13948/2024 WITH RAST/13948/2024

The State Of Maharashtra Through Its Principal
Secretary And Anr

VERSUS

Anjali Vithalrao Jukte And Ors

...

Mr. M. M. Nerlikar, AGP for Applicants

Mr. M. S. Deshmukh i/by Mr. U. B. Gite, Advocate for
Respondents

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : JUNE 28, 2024

PER COURT :

1. By consent of the parties, the delay of 20 days is condoned and the Civil Application is disposed off.

2. By consent of the parties, the Review Application is taken up for hearing.

3. The learned AGP Shri. Nerlikar has vehemently canvassed the grounds (five) in the Review Petition, which read as under:

I) That, the Judgment and order is erroneous, against law, against principle of natural justice and facts on the record.

II) That, in view of the Judgment delivered

by the Food Corporation of India it is settled law that the person who is seeking appointment under the Reserve Category he should be having Validity Certificate while joining the services and it is admitted position on record that present Respondent No. 1 Original Petitioner No. 1 is not at all having the Validity Certificate as on today and his claim is pending before the Caste Scrutiny Committee for Validity.

III) That, while delivering the impugned Judgment though Hon'ble Court observed in impugned order more particularly in para 5 the stand of the Government that such candidates whose claims are pending are seeking the appointment in Government Department without having the Validity Certificate on the premise that their claims are pending for Validity and under orders of this Hon'ble Court such petitioners admitted, though probationary, and if after some days if that person suffers the invalidity at the hands of Scrutiny Committee then this Provisional appointment obviously will be protected in further litigation on the premise of natural justice till the challenge to the invalidity of those candidates and in such cases this would be a modus operandi to such candidates those who does not have validity on the reserve post.

IV) That, though this point has been observed but not appreciated by this Hon'ble Court in view of the Judgment of FCI of the Hon'ble Apex Court. This is error apparent on the face of record which required to be considered at the hands of

the Hon'ble Court.

V) That, one more aspect in the above said circumstances was remaining to the address that the Judgment and order of Hon'ble High Court in case of Shrikant Saindane Vs. State of Maharashtra delivered in Writ Petition No. 2136/2011 dated 25.08.2011 is pending before this Hon'ble Court under consideration by way of SLP No. 033356-033370/2011. As this issue was remained to be addressed while hearing the Writ Petition, this is also one of the ground to consider in the Review Petition and hence this is also a good ground for Review Petition.

4. His contention is that in the light of the judgment delivered by the Hon'ble Supreme Court in Chairman and Managing Director, FCI and Ors. v. Jagdish Balaram Bahira and Ors, AIR 2017 SC 3271, fraudulent claims have to be identified and those who have obtained jobs on the basis of the caste certificates or on the basis of forged caste certificates and do not have a validity certificate of a particular caste or tribe, should not be allowed to continue in employment and they should be deprived of all benefits flowing from their service which is obtained on the basis of a fraud. He places strong reliance on the observations of

the Hon'ble Supreme Court in Chairman and Managing Director, FCI (supra) from paragraph nos. 53 to 63, which read thus:

53. Administrative circulars and government resolutions are subservient to legislative mandate and cannot be contrary either to constitutional norms or statutory principles. Where a candidate has obtained an appointment to a post on the solemn basis that he or she belongs to a designated caste, tribe or class for whom the post is meant and it is found upon verification by the Scrutiny Committee that the claim is false, the services of such an individual cannot be protected by taking recourse to administrative circulars or resolutions. Protection of claims of a usurper is an act of deviance to the constitutional scheme as well as to statutory mandate. No government resolution or circular can override constitutional or statutory norms. The principle that government is bound by its own circulars is well-settled but it cannot apply in a situation such as present. Protecting the services of a candidate who is found not to belong to the community or tribe for whom the reservation is intended substantially encroaches upon legal rights of genuine members of the reserved communities whose just entitlements are negated by the grant of a seat to an ineligible person. In such a situation where the rights of genuine members of reserved groups or communities are liable to be affected detrimentally, government circulars or resolutions cannot operate to their detriment.

54. One of the considerations which is placed in store before the court particularly when an admission to an educational institution is sought to be cancelled upon the invalidation of a caste or tribe claim is that the student has substantially progressed in the course of studies and a cancellation of admission would result in prejudice not only to the student but to the system as well. When the student has completed the degree or diploma, a submission against its withdrawal is urged a fortiori. In our view, the state legislature has made a statutory decision amongst competing claims, based on a public policy perspective which the court must respect. The argument that there is a loss of productive societal resources when an educational qualification is withdrawn or a student is compelled to leave the course of studies (when he or she is found not to belong to the caste or tribe on the basis of which admission to a reserved seat was obtained) cannot possibly outweigh or nullify the legislative mandate contained in Section 10 of the state legislation. When a candidate is found to have put forth a false claim of belonging to a designated caste, tribe or class for whom a benefit is reserved, it would be a negation of the rule of law to exercise the jurisdiction under Article 142 to protect that individual. Societal good lies in ensuring probity. That is the only manner in which the sanctity of the system can be preserved. The legal system cannot be seen as an avenue to support those who make

untrue claims to belong to a caste or tribe or socially and educationally backward class. These benefits are provided only to designated castes, tribes or classes in accordance with the constitutional scheme and cannot be usurped by those who do not belong to them. The credibility not merely of the legal system but also of the judicial process will be eroded if such claims are protected in exercise of the constitutional power conferred by Article 142 despite the state law.

55. This aspect has been considered in a recent judgment rendered by one of us in Nidhi Kaim and Another V. State of Madhya Pradesh And Others (2017) 4 SCC 1, wherein, speaking for a Bench of three Judges, in a case of systemic fraud in relation to medical admissions in the State of Madhya Pradesh. It was observed as follows :

"92...We are of the considered view that conferring rights or benefits on the Appellants, who had consciously participated in a well thought out, and meticulously orchestrated plan, to circumvent well laid down norms, for gaining admission to the MBBS course, would amount to espousing the cause of "the unfair". It would seem like allowing a thief to retain the stolen property. It would seem as if the Court was not supportive of the cause of those who had adopted and followed rightful means. Such a course would cause people to question the credibility of the justice-delivery system itself. The exercise of jurisdiction in the manner suggested on behalf of the

Appellants would surely depict the Court's support in favour of the sacrilegious. It would also compromise the integrity of the academic community. We are of the view that in the name of doing complete justice it is not possible for this Court to support the vitiated actions of the Appellants through which they gained admission to the MBBS course.

Explaining the matter further, this Court held that:

"99....Besides the consideration recorded by us in the foregoing paragraphs, we may confess, that we felt persuaded for taking the view that we have, for a very important reason -- national character. There is a saying--when wealth is lost, nothing is lost; when health is lost, something is lost; but when character is lost, everything is lost. ...

The issue in hand has an infinitely vast dimension. If we were to keep in mind immediate social or societal gains, the perspective of consideration would be different. The submission canvassed needs to be considered in the proper perspective. We shall venture to drive home the point by an illustration. We may well not have won our freedom, if freedom fighters had not languished in jails ... and if valuable lives had not been sacrificed. Depending on the situation, even civil liberty or life itself, may be too trivial a sacrifice, when national interest is involved. It all depends on the desired goal. The Preamble of the Indian Constitution rests on the

foundation of governance on the touchstone of justice. The basic fundamental right of equality before law and equal protection of the laws is extended to citizens and non-citizens alike through Article 14 of the Constitution on the fountainhead of fairness. The actions of the Appellants are founded on unacceptable behaviour, and in complete breach of the Rule of Law. Their actions constitute acts of deceit invading into a righteous social order. National character, in our considered view, cannot be sacrificed for benefits - individual or societal. If we desire to build a nation on the touchstone of ethics and character and if our determined goal is to build a nation where only the Rule of Law prevails, then we cannot accept the claim of the Appellants for the suggested societal gains. Viewed in the aforesaid perspective, we have no difficulty whatsoever in concluding in favour of the Rule of Law. Such being the position, it is not possible for us to extend to the Appellants any benefit Under Article 142 of the Constitution."

We are in respectful agreement with the above principle and statement of the legal position.

56. Medical education is what middle-class parents across the length and breadth of the county aspire for their children (whether this will continue to be so in future is a moot question). There is intense competition for a limited number of under-graduate, post-graduate and super-speciality seats. This can furnish no

justification for recourse to unfair means including adopting a false claim to belong to the reserved category. The fault - lines of our system, be it in education, health or law, are that its lethargy and indolence furnish incentives for the few who choose to break the Rules to gain an unfair advantage. In such a situation, the court as a vital institution of democratic governance must be firm in sending out a principled message that there is no incentive other than for behaviour compliant with Rules and deviance will meet severe reprimands of the law.

I. Conclusion

57. For these reasons, we hold and declare that:-

(i) The directions which were issued by the Constitution Bench of this Court in paragraph 38 of the decision in Milind (AIR 2001 SC 393) were in pursuance of the powers vested in this Court Under Article 142 of the Constitution;

(ii) Since the decision of this Court in Madhuri Patil (AIR 1995 SC 94) which was rendered on 2 September 1994, the regime which held the field in pursuance of those directions envisaged a detailed procedure for (a) the issuance of caste certificates; (b) scrutiny and verification of caste and tribe claims by Scrutiny Committees to be constituted by the State Government; (c) the procedure for the conduct of investigation into the authenticity of the claim; (d) Cancellation and confiscation of

the caste certificate where the claim is found to be false or not genuine; (e) Withdrawal of benefits in terms of the termination of an appointment, cancellation of an admission to an educational institution or disqualification from an electoral office obtained on the basis that the candidate belongs to a reserved category; and (f) Prosecution for a criminal offence;

(iii) The decisions of this Court in R. Vishwanatha Pillai (AIR 2004 SC 1469) and in Dattatray (AIR 2008 SC 1678) which were rendered by benches of three Judges laid down the principle of law that where a benefit is secured by an individual - such as an appointment to a post or admission to an educational institution - on the basis that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or non est.

(iv) The exception to the above doctrine was in those cases where this Court exercised its power Under Article 142 of the Constitution to render complete justice;

(v) By Maharashtra Act XXIII of 2001 there is a legislative codification of the broad principles enunciated in Madhuri Patil (AIR 1995 SC 94). The legislation provides a statutory framework for regulating the issuance of caste certificates (Section 4); constitution of Scrutiny Committees for

verification of claims (Section 6); submission of applications for verification of caste certificates (Section 6(2) and 6(3); cancellation of caste certificates (Section 7); burden of proof (Section 8); withdrawal of benefits obtained upon the invalidation of the claim (Section 10); and initiation of prosecution (Section 11), amongst other things;

(vi) The power conferred by Section 7 upon the Scrutiny Committee to verify a claim is both in respect of caste certificates issued prior to and subsequent to the enforcement of the Act on 18 October 2001. Finality does not attach to a caste certificate (or to the claim to receive benefits) where the claim of the individual to belong to a reserved caste, tribe or class is yet to be verified by the Scrutiny Committee;

(vii) Withdrawal of benefits secured on the basis of a caste claim which has been found to be false and is invalidated is a necessary consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise;

(viii) The decisions in Kavita Solunke and Shalini of two learned Judges are overruled. Shalini in so far as it stipulates a requirement of a dishonest intent for the application of the provision of Section 10 is, with respect, erroneous and does not reflect the correct position in law;

(ix) Mens rea is an ingredient of the penal

provisions contained in Section 11. Section 11 is prospective and would apply in those situations where the act constituting the offence has taken place after the date of its enforcement;

(x) The judgment of the Full Bench of the Bombay High Court in Arun Sonone (AIR 2015 Bom 123) is manifestly erroneous and is overruled; and

(xi) Though the power of the Supreme Court Under Article 142 of the Constitution is a constitutional power vested in the court for rendering complete justice and is a power which is couched in wide terms, the exercise of the jurisdiction must have due regard to legislative mandate, where a law such as Maharashtra Act XXIII of 2001 holds the field.

58. We will, now in the light of the reasons indicated above, proceed to dispose of the individual cases in the following terms:

1. Chairman and Managing Director FCI v. Jagdish Balaram Bahira⁴² :

42. C.A. No.8928 of 2015.

On 6 December 1984, Food Corporation of India offered appointment to the Respondent on the post of Messenger - Depot which was reserved for the Scheduled Tribes on the basis of a caste certificate dated 28 August 1978 issued by the Executive Magistrate, Panvel, stating that the applicant was a Hindu Mahadev Kohli and

hence belonged to a Scheduled Tribe. Upon a declaration submitted by the Respondent he was appointed to the post on 8 January 1985 in the Scheduled Tribe quota. The Respondent received promotional benefits in the post of Dusting Operator (13 August 1990), Senior Dusting Operator (30 December 2000), Picker (1 December 2003) and Senior Picker (20 December 2005). The caste certificate submitted by the Respondent was invalidated by the Scrutiny Committee, Konkan Division, Thane. The claim of the Respondent to belong to the Mahadeo Koli Scheduled Tribe was found not to be established and the certificate was accordingly invalidated and cancelled. Following this his services were terminated on 4 October 2013.

The Respondent instituted writ proceedings before the Bombay High Court to challenge the order of the Scrutiny Committee and his termination from service. By a judgment dated 4 April 2014 the High Court noted that the Respondent was seeking only protection of his services and was willing to give up the claim of belonging to a Scheduled Tribe. By its judgment, the High Court accepted the contention of the Respondent and held that he was entitled to protection of services with continuity while the management would be at liberty to withdraw such benefits as were granted after 28 September 2000. The employer moved a Special Leave Petition and in pursuance of an interim order dated 11 August 2014, the Respondent was reinstated in service and was granted further promotions. Eventually upon his superannuation on 31

August 2015 the Respondent was granted his terminal benefits including gratuity, arrears of wage revision, medical reimbursement, leave encashment, contributory provident fund and productivity linked incentive.

During the pendency of the litigation, the Respondent is retired from service and has even been paid his terminal dues. Hence, at this stage, all that can be observed is that no claim by a member of Mahdeo Koli, Scheduled Caste shall be made or entertained on behalf of the Respondent or any member of his family on the strength of the caste certificate which has been invalidated by the Scrutiny Committee. No further benefits of any nature whatsoever would be admissible to the Respondent on the basis of his claim which has been invalidated. However, in the peculiar facts, we are not inclined to order recovery has to be made from the Respondent. The Civil Appeal is disposed of.

2. *Shri Shivaji Shikshan Sanstha and Anr. v. Raju Laxman Gadekar and Ors. and*

43. (Civil Appeal No. 9155 of 2015).

3. *State of Maharashtra v. Raju Laxman Gadekar & Ors.:*

44. (Civil Appeal No. 9157 of 2015).

In September 1981, Raju Laxman Gadekar obtained a caste certificate that he belonged to the Halba Scheduled Tribe in

Maharashtra. On the strength of the caste certificate, he was appointed as an Assistant Teacher in a post reserved for a Scheduled Tribe in Shri Shivaji High-School, Dongaon on 24 June 1989. On 2 March 2005, he filled up an application in Form E and submitted an affidavit in Form F through his employer to the Scrutiny Committee, which was invalidated on 20 February 2008. Since the claim that he belonged to a Scheduled Tribe was invalidated, his services were terminated by the employer on 26 February 2008. The challenge to the order of termination failed before the School Tribunal. The writ petition challenging the order of the Scrutiny Committee was dismissed on 7 August 2009. The order of the School Tribunal was challenged in a separate Writ Petition which was allowed by a learned Single Judge of the High Court on 16 October 2009 and the employee was directed to be reinstated. In an appeal by the employer, the Division Bench set aside the judgment of the learned Single Judge on 17 April 2010 and dismissed the writ petition. A Special Leave Petition filed by the employee Under Article 136 of the Constitution was dismissed by this Court as not pressed on 1 October 2010. Thereafter the Respondent filed a writ petition praying for his reinstatement and protection of his service. By the judgment dated 5/8/9/10 July 2013 the High Court held that the employee was entitled to the protection of his services.

From the narration of the facts it is clear that the Writ Petition filed by the

employee challenging the order of the Scrutiny Committee was dismissed on 7 August 2009 and it has been held that he does not belong to the Halba Scheduled Tribe. The caste certificate which was obtained by the Respondent has been demonstrated to be a false caste certificate. The challenge to the order of termination also attained finality since the Special Leave Petition against the judgment of the High Court was dismissed as not pressed. In the circumstances, the High Court has clearly erred in allowing protection of service to the employee. Such a direction is also contrary to the provisions of Maharashtra Act XXIII of 2001. The appointment secured by the Respondent on the basis of a false caste claim was required to be withdrawn in terms of provisions of Section 10. There has been a complete misuse of the process by the Respondent.

We, therefore, allow the Civil Appeals and set aside the judgments and orders of the High Court dated 10 April 2013 and 5/8/9/10 July 2013.

In the circumstances, there shall be no order as to costs.

4. State of Maharashtra v. Ku. Chhaya D/o. Hemraj Nimje and Ors.:

45. (Civil Appeal No. 9160 of 2015).

Chhaya Nimje obtained a caste certificate on 20 July 1991 from the Executive Magistrate, Narkhed to the effect that she

belongs to the Halba Scheduled Tribe. On the basis of the caste certificate she obtained appointment as an Assistant Teacher on 24 December 1996 in Bhimrao Bapu Deshmukh Adarsh Vidyalaya. On 9 March she filled up an application in Form E together with an affidavit in Form F Under Rule 11 of the Maharashtra ST (Regulation of Issuance & Verification of) Caste Certificate Rules, 2003. The Vigilance Cell submitted a report showing that her records were of the Koshti community. Before the Scrutiny Committee could decide her claim she approached the High Court in a writ petition seeking protection of service. The High Court disposed of the writ petition on 30 January 2013, on the statement of the employer that her services will not be terminated unless the caste certificate is invalidated by the Scrutiny Committee. She again filed a Writ Petition before the High Court seeking protection of her services.

The Respondent has no right to claim protection of her services. The Respondent has misused the process of law by filing successive writ petitions to pre-empt an adjudication by the Scrutiny Committee and then confining the claim only to the protection of her services.

For the reasons which are indicated in the body of the judgment and for the above reasons, the Civil Appeal is allowed and impugned judgment and order of the High Court is set aside. No other submission is urged.

In the circumstances, there shall be no

order as to costs.

5. State of Maharashtra and Anr. v. Mrs. Arundhati Suresh Ninawe and Anr.:

46. (Civil Appeal Nos. 9203-04 of 2015).

The Respondent was appointed as a Lecturer on a post reserved for the Scheduled Tribes on 20 March 1997 on the basis of a caste certificate dated 18 May 1995 stating that she belongs to the Halba Scheduled Tribe. The Scrutiny Committee has invalidated the caste certificate and directed it to be confiscated. The High Court by its order dated 26 November 2012 has confirmed the order of invalidation but has granted protection of service. By a subsequent order the High Court has ordered the State to consider revision/refixation of pay scales.

For the reasons indicated by this Court while disposing of Civil Appeal Nos. 9155 and 9157 of 2015 and for those contained in the body of the judgment, the Civil Appeals are allowed. The impugned judgments and orders of the High Court are set aside. No other submission is urged.

There shall, however, be no order as to costs.

6. Mahatma Fule Krishi Vidyapeeth v. Nagnath Baburao Mangrule and Ors.:

47. (Civil Appeal No. 8296 of 2015).

The Respondent was appointed as an

Agricultural Assistant on a post reserved for the Scheduled Tribes on 22 July 1996 on the basis of a caste certificate dated 3 February 1991 stating that he belongs to the Mahadeo Koli tribe. On 26 August 2011 the Respondent submitted his caste certificate and other documents for verification of the caste claim, which were forwarded to the Scrutiny Committee. In the meantime the Appellant initiated a departmental enquiry against the Respondent and terminated the services of the Respondent by its order dated 18 December 2012. Subsequently the Scrutiny Committee invalidated the caste claim of the Respondent by its order dated 3 October 2013. The High Court by its order dated 4 April 2014 has confirmed the order of invalidation but has granted protection of service.

For the reasons indicated in the body of the judgment and those indicated while allowing Civil Appeal Nos. 9155 and 9157 of 2015, the Civil Appeal shall stand allowed. The impugned judgment and order of the High Court is set aside insofar as it protects the services of the Respondent.

There shall be no order as to costs.

7. Suresh S/o. Dewaji Vairagade v. The Controller General, Indian Bureau of Mines, Indira Bhavan, Civil Lines, Nagpur and Anr.:

48. (Civil Appeal No. 1918 of 2010).

The Appellant was appointed as an Assistant

Store Keeper on a post reserved for the Scheduled Tribes on 14 November 1988 on the strength of a caste certificate dated 14 January 1985 stating that he belongs to the Halba Schedule Tribe. The Scrutiny Committee by its order dated 30 August 2005 invalidated the caste claim of the Appellant. Subsequently the Respondent terminated the services of the Appellant in pursuance of the proviso to Sub Rule 1 of Rule 5 of the Central Services (Temporary Services) Rules, 1965. Being aggrieved, the Appellant filed a writ petition which was dismissed by the High Court by its order dated 3 August 2009.

Having due regard for the reasons contained in the body of this judgment, we find no error in the judgment of the High Court. The Civil Appeal shall stand dismissed. No other submission is urged.

There shall be no order as to costs.

8. Rajendra S/o. Ramaji Mahisbadwe v. The Joint Commissioner and Vice-Chairman Scheduled Tribe, Caste Certificate Scrutiny Committee & Anr.:

49. (Civil Appeal No. 9157 of 2015).

The Appellant was appointed as a trainee technician in Air India on a post reserved for the Scheduled Tribes on 6 August 1997 on the basis of a caste certificate dated 9 August 1988 stating that he belongs to the Halba Schedule Tribe. Thereafter the appointment of the Appellant was confirmed on 1 March 1999. The second Respondent

sought a clarification from Tehsildar, Nagpur to ascertain whether the caste certificate is genuine or not. The Tehsildar by a letter dated 17 October 2008 stated that the name of the Appellant is not borne in the records. Accordingly the second Respondent terminated the services of the Appellant by an order dated 3 November 2009. The Scrutiny Committee by its order dated 5 October 2012 invalidated the caste claim of the Appellant.

The High Court by its judgment dated 11 March 2013 has declined to grant protection to the services of the Appellant upon the invalidation of his claim to belong to the Halba Scheduled Tribe by the Scrutiny Committee on 5 October 2012. There is a clear and patent misuse of process by the Appellant. In the absence of the caste validity certificate, the appointment of the Appellant cannot be held to have attained finality. Having due regard to the reasons contained in the body of this judgment, we find no error in the judgment of the High Court. The Civil Appeal shall stand dismissed. No other submission is urged.

There shall be no order as to costs.

9. Chhaya D/o. Yadaorao Barapatre @ Chhaya W/o. Rajeev Dhakate v. The State of Maharashtra and Ors.:

50 (Civil Appeal No. 9158-59 of 2015)

The Appellant was appointed as a Junior Lecturer in the fourth Respondent High

School on a post reserved for the Scheduled Tribes on 2 July 1991 on the basis of a caste certificate dated 23 July 1984 stating that she belongs to the Halba Schedule Tribe. On 14 March 1997 the Appellant's appointment as a Junior Lecturer was confirmed by the fourth Respondent. The Scrutiny Committee invalidated the caste claim of the Appellant by its order dated 8 November 2012. The High Court by its impugned judgment and order dated 5 April 2013 has declined to grant protection of services. The Appellant preferred a review which was dismissed by the High Court by its order dated 10 May 2013. For the reasons contained in the body of the judgment and having due regard to the invalidation of the claim of the Respondent by the Scrutiny Committee, we find no error in the judgment of the High Court. The Civil Appeals are accordingly dismissed. There shall be no order as to costs.

10. Ravindra Govindrao Nagpurkar v. Secretary, Rajasthan Education Society Washim and Ors.:

51. (Civil Appeal Nos. 8604/05/17 @ SLP (C) Nos. 33864-65 of 2015)

The Appellant was appointed as a Lecturer on a post reserved for the Scheduled Tribes on 14 August 1995 on the basis of a caste certificate dated 13 May 1982 stating that he belongs to the Halba Scheduled Tribe. The caste claim of the Appellant was invalidated by the Scrutiny Committee by its order dated 18 January 2005. Thereafter

the Appellant was issued a show cause notice dated 3 January 2006 by the first Respondent to explain why his services should not be terminated. On 16 January 2006 the Appellant filed a writ petition and challenged the show cause notice. However, on the same day the first Respondent had already issued an order of termination. Thereafter the High Court granted permission to withdraw the writ petition and liberty was granted to file proceedings before the appropriate forum. The Appellant preferred an appeal before the University & College Tribunal, Nagpur which was dismissed by the tribunal by its order dated 30 December 2012. The High Court by its impugned judgment and order dated 18.3.2013 has declined to grant protection of services. The Review Petition was also dismissed on 29 November 2013.

For the reasons contained in the body of the judgment and having due regard to the invalidation of the claim of the Respondent by the Scrutiny Committee, we find no error in the judgment of the High Court. The Civil Appeals are accordingly dismissed.

There shall be no order as to costs.

*11. Shri Shivaji Education Society and Anr.
v. State of Maharashtra and Ors.:*

*52. (Civil Appeal Nos. 8601/17 @ SLP (C)
No. 289 of 2016).*

The third Respondent was appointed as an Assistant Teacher on a post reserved for the Scheduled Tribes on the basis of a

caste certificate showing him as belonging to the Thakur Scheduled Tribe. By its order dated 23 April 2008 the Scrutiny Committee invalidated the tribe claim and confiscated his certificate. The services of the third Respondent were terminated on 12 May 2008. While dismissing the writ petition challenging the order of the Scrutiny Committee the High Court by its order dated 15 December 2015 has none the less directed reinstatement of the third Respondent subject to an undertaking that he would not claim the benefit of belonging to the Scheduled Tribe in future. Once the tribe claim of the Respondent has been held to be false, the judgment of the High Court is unsustainable for the reasons indicated in the body of this judgment. The Civil Appeal is accordingly allowed and the judgment and order of the High Court dated 15 December 2015 is set aside. In consequence the Writ Petition filed by the third Respondent shall stand dismissed.

There shall be no order as to costs.

12. *Hindustan Aeronautics Limited v. Murlidhar Arjun Neware and Anr.:*

53. *(C.A. No. 8602-03/17 @ SLP (C) Nos. 529-30 of 2016).*

The Respondent was appointed on the post of Assistant Engineer (Grade-I) reserved for the Scheduled Tribes on 11 March 1992 on the strength of a caste certificate stating that he belongs to the Gondgowari tribe. The Scrutiny Committee initially by an order dated 23 June 2004 rejected the tribe

claim. Subsequently in pursuance of order of remand passed by the High Court, the Scrutiny Committee investigated into the matter again and invalidated the tribe claim by its order dated 2 January 2006 and ordered the tribe certificate to be cancelled. The High Court dismissed the Writ Petition filed by the Respondent on 10 November 2006 and the review petition was also dismissed for want of prosecution on 5 April 2006. However, subsequently the review petition, after restoration, was allowed on 30 January 2015 and while the cancellation of the caste certificate was upheld protection to the services of the Respondent was granted.

For the reasons contained in the body of the judgment and having due regard to the fact that the claim of the Respondent has been found to be false, we find merit in the appeals which have been filed by the Appellant. The impugned judgments of the High Court dated 30 January 2015 are accordingly set aside. The writ proceedings filed by the Respondent shall, in the circumstances, stand dismissed. The Civil Appeals are allowed in these terms. No other submission is urged.

There shall be no order as to costs.

13. India Trade Promotion Organisation v. Vivek kumar Lajjashankar Chaurasiya:

54. (C.A. No.8607/17 @ SLP (C) No. 14830 OF 2015).

The Scrutiny Committee by its order dated

30 March 2013 has found that the Respondent does not belong to the Nagawanshi tribe. The Respondent was appointed on a post reserved for the Scheduled Tribes on the strength of a certificate that he belongs to the Nagawanshi tribe. The Division Bench of the High Court, placing reliance on the judgment of the Full Bench in Arun Sonone's case (supra), has by its judgment dated 16 February 2015 granted reinstatement to the Respondent.

For the reasons contained in the body of the judgment, the appeal filed by the employer shall have to be allowed and is accordingly allowed. The impugned judgment of the High Court dated 16 February 2015 is set aside. No other submission is urged.

There shall be no order as to costs.

14. Mumbai Metropolitan Region Development Authority v. Rajendra Ramchandra Dhakate and Anr.:

55. (Civil Appeal 8609/17 @ SLP (C) No.13409 of 2015)

The claim of the Respondent to belong to the Halba Scheduled Tribe has been invalidated by the Scrutiny Committee by its order dated 30 July 1998. The Scrutiny Committee has found that the documents submitted by the first Respondent were manipulated and fabricated. The Respondent was appointed to a post reserved for the Scheduled Tribes on the basis of a caste certificate stating that he belongs to the Halba Scheduled Tribe. The termination of the services the

Respondent has followed upon the cancellation of the caste certificate.

In the circumstances and for the reasons contained in the body of the judgment, the High Court erred in allowing the writ petition filed by the Respondent and directing the Appellant to reinstate him. The Civil Appeal is accordingly allowed by setting aside the impugned judgment and order of the High Court dated 20 January 2015. The writ petition filed by the Respondent shall, in the circumstances, stand dismissed.

There shall be no order as to costs.

15. State of Maharashtra v. Vasant, S/o. Gyandeo Gonnade:

56. (Civil Appeal 8606/17 @ SLP (C) No. 19992 of 2015)

The Respondent was appointed on the post of Junior Engineer on 21 July 1982 on the basis of a claim of belonging to the "Halba Koshti" Scheduled Tribe. The Scrutiny Committee invalidated his claim on 19 August 1985. In the meantime, the Maharashtra Public Service Commission recommended the Respondent for appointment in the cadre of Assistant Engineer in 1984 and 1986 but he was not granted placement. The Respondent filed a writ petition to challenge the order of the Scrutiny Committee dated 19 August 1985 which was dismissed by the High Court on 4 July 1986. Thereafter the Respondent filed an appeal (Caste Appeal) 11/1986-87 before the

Divisional Commissioner, Nagpur against the order of the Scrutiny Committee. The appeal was disposed of on 23 August 1985 by remanding the proceedings back to the Scrutiny Committee. On remand, the Scrutiny Committee, by its order dated 28 August 1989 found that the Respondent does not belong to the Scheduled Tribe and cancelled his caste certificate. The Respondent filed an appeal before the Additional Divisional Commissioner, Nagpur which was dismissed on 12 November 1990. The Respondent filed a writ petition challenging the invalidation of his caste claim and to seek relief in respect of his service conditions. By an order dated 23 March 1995 the writ petition was allowed by holding that the Respondent belongs to the Halba Koshti caste but that was made subject to the decision in Milind (AIR 2001 SC 393) (supra).

The Respondent was granted placement in the seniority of Assistant Engineer with effect from 29 July 1987, subject to the final outcome of the proceedings in Milind (supra). On 18 October 1995 the Respondent was appointed as Assistant Executive Engineer subject to the decision in Milind (supra) and he joined on 4 December 1995. On 4 October 1999 the Respondent was promoted to the post of Executive Engineer subject to the final disposal of the proceedings before this Court in Milind (supra). It was directed that the seniority would be fixed after the final decision of this Court. On 15 September 2000 the Respondent was given a deemed date of 29 May 1987. On 15 April 2005, considering the judgment of this Court in Milind (supra),

the appointment of the Respondent to the post of Assistant Executive Engineer was protected and he was regularized on the post considering it as an open category post. His seniority was directed to be fixed from the date of appointment and it was ordered that he shall not get the benefit of belonging to a Scheduled Tribe. On 6 August 2005 the earlier deemed date of 29 May 1987 was modified and his seniority on the post of Assistant Executive Engineer was fixed from 4 December 1995. On 5 June 2006 a G.R. was issued by which the deemed date was modified to 29 May 1987 on the post of Assistant Executive Engineer for the purpose of seniority. On 1 August 2009 a G.R. was issued by which the deemed date for the purpose of seniority on the post of Executive Engineer was set as 29 May 1991 subject to approval of the M.P.S.C. On 28 April 2014 the State Government published a seniority list from 1 January 2011 to 13 December 2013 for Executive Engineer.

The Respondent who was aggrieved by the G.R. dated 28 April 2014 filed a writ petition before the High Court at its Nagpur Bench praying for an appropriate writ for the declaration of the date of his seniority. The High Court by its judgment dated 27 February 2015 has adverted to the decision in Arun Sonone (AIR 2015 Bom 125) and has come to the conclusion that the G.R. dated 6 August 2005 is not sustainable and the state government has been directed to give effect to its G.R.s dated 15 September 2000 and 15 April 2005 by placing the Respondent in the cadre of Assistant Engineer with effect from 29 May 1987.

From a reading of the judgment of the High Court, it is clear that the primary consideration which weighed with it was the decision of its Full Bench in Arun Sonone. In view of the reasons contained in the body of this judgment, this basis of the impugned decision of the High Court is erroneous. The Respondent does not belong to the Halba Scheduled Tribe. It is also clear that the benefits obtained by the Respondent were subject to the decision in Milind (AIR 2001 SC 393). In Milind, this Court has held that Halba - Koshti is not a Scheduled Tribe, the relevant entry in the Scheduled Tribes Order 1950 being 'Halba, Halbi'.

We accordingly allow the Civil Appeal and set aside the impugned judgment dated 27 February 2015.

There shall be no order as to costs.

16. State of Maharashtra v. Ku. Vijaya Deorao Nandanwar and Anr.:

57. (C.A. No. 9107 of 2015).

The claim of the Respondent of belonging to the Halba Scheduled Tribe has been invalidated by the Scrutiny Committee by its order dated 7 November 2009. The Respondent was appointed as an Assistant Teacher on a post reserved for the Scheduled Tribes. Following the invalidation of the claim, the services of the Respondent were terminated. The High Court by its impugned order dated 5 July

2013 set aside the order of termination and granted protection to the service of the Respondent.

For the reasons contained in the body of the judgment, the impugned order of the High Court is unsustainable and is accordingly set aside. The writ petition filed by the Respondent shall, in the circumstances, stand dismissed. The Civil Appeal is allowed in these terms. No other submission has been urged.

There shall be no order as to costs.

17. Ishwar Shrawan Nikhare v. State of Maharashtra and Ors.:

58. (Civil Appeal No. 7187 of 2013).

The Appellant was appointed as an Assistant Teacher in a vacancy reserved for the Scheduled Tribes on 30 January 1999. The Caste Scrutiny Committee invalidated the claim of the Appellant on 1 July 2008. The Division Bench of the High Court, by its order dated 30 January 2009 allowed the request for the withdrawal of the writ petition filed by the Appellant keeping open the validity of the observations made by the Scrutiny Committee whereby prosecution was ordered. The services of the Appellant were terminated on 8 February 2009. The Appellant filed an appeal before the School Tribunal which was dismissed on 19 October 2011 on the ground that the appointment of the Appellant was not a valid appointment in the eye of law. The learned Single Judge dismissed the writ

petition challenging the order of the Tribunal. A Letters Patent Appeal has been dismissed by the Division Bench by its judgment dated 7 May 2012. Having regard to the fact that the claim of the Appellant to belong to a Scheduled Tribe was invalidated by the Scrutiny Committee, the School Tribunal cannot be faulted in declining to entertain the appeal against the consequential order of termination of service. Moreover, for the reasons contained in the body of the present judgment, we find no merit in the Civil Appeal. The Civil Appeal is accordingly dismissed. No other submission has been urged.

There shall be no order as to costs.

18. Eknath Barikrao Dhanwade v. Divisional Controller, State Transport Corporation and Anr.:

59. (Civil Appeal 5608/17 @ SLP (C)... CC No. 10889 of 2015).

The Appellant was appointed as a driver in 1999 with the Respondent on a post reserved for Scheduled Tribes on the basis of a caste certificate that he belongs to the Mahadeo Koli tribe. The Appellant's caste claim was rejected by the Scrutiny Committee holding that the Appellant does not belong to the said tribe. A writ petition was filed by the Appellant. The High Court by an order dated 11 January 2000 remanded the matter to the Scrutiny Committee. On 2 March 2001 the Scrutiny Committee invalidated the tribe claim of

the Appellant. The Appellant filed a Writ Petition before the High Court. By an order dated 30 June 2014, the High Court dismissed the petition. The Appellant filed another writ petition which was dismissed with costs by an order dated 19 September 2014. Subsequently on 19 November 2014 the first Respondent terminated the service of the Appellant. Being aggrieved, the Appellant filed another writ petition which was dismissed by the High Court by its order 19 January 2015. The above narration indicates a complete abuse of process by the Appellant.

For the reasons contained in the body of the present judgment and in view of the above, we find no merit in the appeal. The Civil Appeal is accordingly dismissed. No other submission is separately urged.

There shall be no order as to costs.

19. Pradip Gajanan Koli v. State of Maharashtra and Ors.:

60. (Civil Appeal No. 8598/17 @ SLP (C) 18925 of 2014).

The Appellant was appointed to the post of Fireman in the reserved category for the Scheduled Tribes on 12 March 1996. Thereafter a caste certificate dated 22 June 2000 certifying that the Appellant belongs to the Mahadeo Koli Scheduled Tribe was issued. The caste certificate was referred to the Scrutiny Committee for verification. The Appellant submitted an affidavit stating that he belongs to the

said caste and also appeared before the Committee. By an order dated 7 July 2012 the Scrutiny Committee invalidated the caste certificate of the Appellant. The Appellant filed a writ petition which was disposed of by the High Court, by its judgment and order dated 20 November 2013 with a direction that in case the Appellant is still in service as on that date, his employment shall not be terminated for a period of three months from the date of its order.

For the reasons contained in the body of the present judgment, we find no error in the impugned judgment. The Civil Appeal is accordingly dismissed. No other submission is separately urged.

There shall be no order as to costs.

20. Union of India and Ors. v. Suryakant and Ors.:

61. (Civil Appeal No. 8597/17 @ SLP (C) No. 16852 of 2016)

The Director General, Vigilance, New Delhi by an order dated 1 July 2005, initiated the verification of tribe certificates of employees who were appointed from 1995. Accordingly, the original tribe certificate of the Respondent was asked to be produced. The Respondent was appointed on the post of Lower Division Clerk reserved for the Scheduled Tribes on the strength of a caste certificate stating that he belongs to the Mahadeo Koli tribe. The certificate was issued by the Tahsildar, Akola on 13 May

1985. Subsequently on enquiry about the authenticity of the tribe certificate, the Tahsildar, Akola informed that the register for the year 1985 was not traceable and hence it cannot be stated whether certificate was issued by office or otherwise. Instead of submitting his original caste certificate the Respondent produced a fresh tribe certificate dated 21 July 2005 issued by S.D.O., Bhusawal wherein it was stated that he belongs to the Mahadeo Koli tribe. By an order dated 10 October 2011 the Scrutiny Committee invalidated the caste claim of the Respondent. The Respondent filed a writ petition before the High Court. The High Court by its impugned judgment and order dated 20 October 2015 allowed the writ petition, relying upon its Full Bench judgment in Arun Sonone (AIR 2015 Bom 123) (supra) with a direction that the Respondent is entitled to claim service protection and shall not be entitled to claim promotion in employment.

The narration of facts reveals a complete misuse of process by the Respondent. For the reasons contained in the body of the judgment, the impugned order of the High Court is unsustainable and is accordingly set aside. The Civil Appeal is accordingly allowed in these terms. No separate submission is urged.

There shall be no order as to costs.

21. Executive Director (Lubes), Indian Oil Corporation Ltd. v. Ashok Mahadeorao Pathrabe and Ors.:

62 (Civil Appeal Nos. 8599-8600/17 @ SLP (C) Nos. 29388-89 of 2016)

The Respondent joined IOCL in 1976 at its R & D Centre, Faridabad. At the time of the appointment, the Respondent has shown himself as belonging to the Halba Scheduled Tribe. The appointment was subject to the information submitted by the Respondent being true and correct. The Respondent submitted his caste certificate along with a prescribed form/documents on 15 December 2006 which were forwarded for verification. The Scrutiny Committee rejected the caste claim of the Respondent on 4 October 2010. Being aggrieved, the Respondent preferred an internal appeal and also a writ petition before the High Court. By its order dated 1 March 2011 the Appellant rejected the appeal of the Respondent upholding the dismissal order. Subsequently on 7 December 2011 the High Court also dismissed the petition of the Respondent upholding the dismissal order. Being aggrieved, the Respondent filed a Special Leave Petition before this Court which was dismissed by an order dated 27 February 2012. The Appellant filed another writ petition before the High Court which was allowed by an order dated 24 November 2015 to the extent that the services of the Respondent were protected till his superannuation.

The facts narrated above reveal a complete misuse of process by the Respondent. For the reasons contained in the body of the judgment, the impugned orders of the High Court are unsustainable and are accordingly

set aside. The Civil Appeals are accordingly allowed in these terms. No other submission is urged.

There shall be no order as to costs.

22. The State of Maharashtra and Ors. v. Rupesh S/o. Teksingh Shinde:

63. (Civil Appeal Nos. 8610/17 @ SLP (C) No. 2299 of 2017).

The Respondent was appointed as a clerk on a post earmarked for the Vimukta Jatis on 26 March 1999 claiming that he belongs to the Rajput Bhamta Vimukta Jati. The caste claim of the Respondent was referred to the Scrutiny Committee for verification and was invalidated by an order dated 29 July 2011. As the caste claim was invalidated the Respondent was terminated from service by an order dated 16 August 2011. Being aggrieved, the Respondent filed a writ petition before the High Court. After hearing both the parties, the court remanded the matter back to the Scrutiny Committee. The caste certificate was again invalidated by an order dated 21 January 2014 and the Committee observed that the Respondent obtained a false caste certificate and directed the registration of an FIR against the Respondent, pursuant to which the services of the Respondent were terminated. Being aggrieved the Respondent filed a writ petition before the High Court. The High Court by its impugned judgment and order dated 3 February 2016 allowed the writ petition relying upon its Full Bench judgment in the case of Arun

Sonone v. State of Maharashtra (AIR 2015 Bom 123) (supra) with a direction to the Appellant to reinstate the Respondent on his original post.

The facts narrated above indicate the manner in which the process has been abused by the Respondent. For the reasons contained in the body of the judgment, the impugned order of the High Court is unsustainable and is accordingly set aside. The Civil Appeal is accordingly allowed in these terms. No other submission is urged.

There shall be no order as to costs.

Order Accordingly.

5. It is well settled in the light of the judgments delivered by the Hon'ble Supreme Court in Lily Thomas vs. Union of India, AIR 2000 SC 1650, S.Madhusudhan Reddy vs. V. Narayana Reddy and others, 2022 LiveLaw (SC) 685 : 2022 SCC Online SC 1034, Pancham Lal Pandey vs. Neeraj Kumar Mishra and others, 2023 LiveLaw (SC) 111 : 2023 SCC Online SC 143 : SLP (C) No.3329/2021 decided on 15.02.2023, that a Review Petition is not to be canvassed as if a Writ Petition is being re-heard. If the judgment of the Court is unsustainable on merits, the same has to be challenged. If there is an error which is apparent on the face of

the order, a Review can be maintainable.

6. The learned AGP, despite his strenuous submissions, is unable to point out as to whether this Court has wrongly relied upon the judgment delivered in *Shrikant Chandrakant Saindane vs. The State of Maharashtra and others* (Writ Petition No. 2136/2011 decided on 25.08.2011), wherein this Court had observed in paragraph nos.15 to 18 as under:

"15. No doubt, that the purpose of the said condition is with a noble aim of ensuring that the reserved seat should be occupied by a candidate belonging to that particular reserved category and no candidate or person, not belonging to reserved category, should usurp the said post. However, at the same time, the Court cannot ignore the fact that it is not in the hands of the candidates to obtain the certificate before they appear for interview or apply for a particular post. If the the impugned condition is upheld, an eventuality cannot be ruled out that a candidate will have to wait till he reaches the maximum age to apply for the post and is given the validity certificate after he becomes age bar. In such a situation, a candidate belonging to a particular backward class, would be deprived of availing the benefits, though, in law, he is entitled to.

16. It is a settled principle of law that a party cannot be asked to do an impossible act. Reference, in this respect, can be made to a judgment of the Apex Court in the matter of Mohammed Gazi vs. State of M.P.

and others, reported in 2000 (3) SCALE 6.

17. In any case, if any candidate's claim is subsequently invalidated, the law has taken care for the same. Sub-section (1) of Section 10 of the said Act provides that:

10 Benefits secured on the basis of false Caste Certificate to be withdrawn.-

(1) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category, secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.

If an ineligible candidate, who is appointed on the post reserved for reserved category, is found to be not belonging to that category and his caste claim is invalidated, his services will be liable to be terminated forthwith and he shall stand discharged from the services.

18. In that view of the matter, we find that the said condition is totally unreasonable and as such, liable to be struck off. Hence

the following order:-

- (i) We allow the petitions and hold that condition no.7, in Government Resolution dated 5th November 2009, is unreasonable and, therefore, is struck off.*
- (ii) Since it is not in dispute, that all the petitioners are duly selected against a post reserved for particular reserved category, we direct the Respondent-employers to forthwith issue provisional appointment orders in favour of the petitioners, which shall be subject to validation of their caste / tribe claims. The same shall be done within a period of one month from today.*
- (iii) The respective Respondent-Scrutiny Committees are directed to decide claim of the petitioners as expeditiously as possible and in any case, within a period of six months from today.*
- (iv) It is directed that no coercive action shall be taken against the petitioners on the ground of non submission of validity certificate till the Respondent-Committees decide claims of the petitioners.*
- (v) It is further directed that in the event any order adverse to the interest of the petitioners is passed by the Respondent-Committees, the same shall not be given effect for a period of four weeks from the date of receipt of communication by the petitioners."*

7. The learned AGP further submits that the judgment delivered in Shrikant Chandrakant Saindane (supra), has been assailed before the Hon'ble Supreme Court and the Civil Appeal, along with a group of cases, is pending final adjudication.

8. In the present case, the Review Petitioner contends that since benefits granted to candidates who have been selected against reserved category posts, cannot be continued if their claims for validity certificates have been rejected, they have to suffer the consequences flowing from the dictum of the Hon'ble Supreme Court in Chairman and Managing Director, FCI (supra).

9. Mr. Deshmukh, the learned Advocate for the Original Petitioner, points out that the State of Maharashtra has been lenient in the matter of elections to the local authorities and bodies, where candidates are permitted to contest elections on the basis of reserved category claims only on the basis of pendency of their validity proposal. He submits that he can cite instances to establish that the candidate has to only show an acknowledgment receipt of a competent caste or tribe Scrutiny Committee to evidence the pendency of the proposal for validation and based on such a fringe documentary evidence, a candidate can be elected.

10. He further submits that though the learned Full Bench of this Court has delivered a judgment in

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(1) MhLJ 431 (FB), concluding that an elected candidate must tender a validity certificate in six months from the date of election and though the Hon'ble Supreme Court has laid down the law in **Shankar Raghunath Devre (Patil) Vs State, (2019) 3 SCC 220**, that the mandate of six months is binding, the State of Maharashtra diluted the provisions of the Village Panchayat Act and issued ordinances to postpone the period for submission of validity certificate. As a consequence, candidates without validity certificates are still occupying public offices.

11. Mr. Deshmukh, further points out that after this Court delivered a judgment in **Shrikant Chandrakant Saindane** (supra), the Government of Maharashtra came out with a Government Resolution dated 12.12.2011, specifically making a reference to the order in **Shrikant Chandrakant Saindane** (supra), in प्रस्तावना (paragraph) and has recorded that "candidates would be given appointment orders subject to submitting their validity and subject to the decision of the Hon'ble Supreme Court before which the judgment in Shrikant

Chandrakant Saindane has been assailed"

12. In this Review Petition, the Review Petitioner had to demonstrate that this Court has committed an error which is apparent from the face on record, by following Shrikant Chandrakant Saindane (supra). We find that we have rightly followed the purport of the view taken in Shrikant Chandrakant Saindane (supra) and in fact considering paragraph 18(ii) of the said judgment, we have directed in paragraph 7 (e) that no right would be crystallized in favour of the Original Petitioner after receiving a provisional appointment order on probation and he would not be confirmed in employment till he receives/secures a validity certificate. We have passed an equitable order which does not suffers from any error. So also, the GR dated 12.12.2011 based on Shrikant Chandrakant Saindane (supra), fortifies our view.

13. In view of the above, **this Review Petition is rejected.**

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)