



- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 WRIT PETITION NO. 9459 OF 2024

PAURNIMA JAYRAM SONAWANE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY AND
OTHERS

Mr.S.T.Solanke, Advocate for the Petitioners.
Mr.S.R.Wakale, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)

DATE : SEPTEMBER 3, 2024

PER COURT :

1. The Petitioners have admittedly scored less marks than the selected candidates, who are Respondent Nos. 4 and 5, in the selection process for the appointment of अंगणवाडी पर्यवेक्षिका (Anganwadi Supervisor), in view of the advertisement. Respondent No.4 and 5, belong to the Scheduled Tribe Category. Respondent No.4 has scored 120 marks. Respondent No.5 has scored 118 marks. Petitioner No.1 as well as Petitioner No.2, who also belong to the Scheduled Tribe Category, have scored 116 marks, each. There is no challenge to the scoring pattern or the marks allotted to Respondent Nos. 4 and 5.

2. The Petitioners are not aware about the actual Tribe of Respondent Nos. 4 and 5. The Petitioners belong to 'Koli Mahadev' and 'Kokani' Scheduled Tribes, respectively. As Respondent Nos. 4 and 5 have not tendered their validity certificates, the Petitioners pray that their appointments should be cancelled.

3. We have perused Clause 17.3 of the advertisement bearing No.01/2023, which requires a person belonging to the reserved category, to submit a validity certificate within 6 months from the date of the selection and appointment. If such validity certificate is not tendered, the selected / appointed candidate is to be terminated.

4. This issue was dealt with by this Court [Coram : B.R.Gavai (as his Lordship then was) and M.T.Joshi, JJ.] in **Shrikant Chandrakant Saindane Vs. State of Maharashtra and Others [2012(1) Mh.L.J.787]**, wherein this Court concluded that though a candidate may not have a validity certificate at the time of his selection, it cannot be an embargo for not issuing an appointment order to such a candidate.

5. Such selected candidates, who have produced their particular caste or tribe certificates, can be appointed pending submission of the validity certificate. This Court ruled that the GR dated 05.11.2009, to the extent of Condition No.7 mandating candidates belonging to Scheduled Tribes, to produce the caste validity certificates before their appointment, was held to be unreasonable and was struck off.

6. The Petitioner is relying upon a judgment delivered by this Court at the Nagpur Bench in **Ms. Chitra d/o Udaram Sonarghare and w/o Durgesh Gadikar Vs. The State of Maharashtra and Others** (Coram : R.K.Deshpande and A.S.Chandurkar, JJ.) delivered on 15.01.2020, more specifically, on the conclusions in paragraph No.30, which read as under :-

“30. We summarize our conclusions on the basis of the aforesaid reasoning as under :-

[1] The constitutional mandate under Articles 14 and 16 is to provide equal opportunity in public employment in the seats reserved for backward class categories. The eligibility in this context means those who are really entitled to claim selection and appointment to a post reserved for a particular category of backward class. To select and appoint the persons who do not belong to such category promotes the

claim of imposter, amounting to fraud on the Constitution. Such practice, therefore, needs to be curbed and deprecated.

[2] The combined reading of Sections 3 and 6 of the said Act clearly mandates that after coming into force of the said Act on 18.10.2001, no person can claim the benefit of reservation for any of the backward class categories in public employment without producing a caste certificate by the “Competent Authority”, as defined under Section 2(b) and a validity certificate from the Scrutiny Committee constituted under sub-section (1) of Section 6 of the said Act. The requirement is mandatory and no relaxation can be granted.

[3] The provisions of sub-section (3) of Section 6, and Sections 7, 10 and 11 of the said Act operate only in cases where the selections and appointments were made prior to or subsequent to coming into force of the said Act, but subject to production of caste validity certificate. Obviously, these provisions do not operate where the selections and appointments are made on the basis of production of caste validity certificate.

[4] The action of the respondents incorporating the clause in the advertisement in question requiring the production of caste validity certificate to become eligible for considering selection and appointment to the post reserved for Scheduled Tribe Category is upheld.”

7. What has been held in Ms. Chitra (supra), is that the clause set out in the advertisement requiring production of caste validity certificate, cannot be faulted. The learned Advocate for the

Petitioner concedes that the learned Division Bench of this Court, which delivered the judgment in Chitra (supra), was not shown Shrikant Chandrakant Saindane (supra), wherein it was held that no candidate belonging to a Scheduled Tribe Category should be deprived of an appointment order, only because he does not have the a validity certificate. As such, since the judgment in Shrikant Saindane (supra) has been delivered prior in time and was not cited before the Court delivering the judgment in Chitra (supra), we are unable to accept the contention of the Petitioner that Clause 30(4) reproduced above, should be read as being a mandate that 'no candidate should be appointed in service until a validity certificate is produced'.

8. In view of the above, **this Writ Petition is dismissed.**

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)