

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13990 OF 2024

Manesh S/o Sangram Yeotikar

...Petitioner

Versus

The State Of Maharashtra & Ors

...Respondents

Mr. Sahil Choudhari for the Petitioner.

Ms. R. A. Salunkhe, AGP for the Respondent Nos. 1 to 5

CORAM : RAVINDRA V. GHUGE &
M. M. SATHAYE, JJ.

DATE : 14th OCTOBER, 2024.

P.C.:-

1. The Petitioner has put forth prayer clauses (A) and (B), has under:

“(A) The respondent no. 5 Education Officer may kindly be directed to issue No Objection to respondent no. 6 Institution for appointment of the petitioner as Teacher, being the petitioner has been duly selected and held eligible for said post from ST category in Recruitment of 2022 i.e. Pavitra Portal conducted by the respondent no. 1, 3 and 4, without insisting for tribe validity certificate, per the provisions of Government Resolution dated 12/12/2011 and allow the petitioner to join said service.

(B) Pending hearing and final disposal of this petition, respondent no. 5 Education Officer may kindly be directed to issue No Objection to respondent no. 6 Institution for appointment of the petitioner as Teacher, being the petitioner has been duly selected and held eligible for said post from ST category in Recruitment of 2022 i.e. Pavitra Portal conducted by the respondent no. 1, 3 and 4, without insisting for tribe validity certificate, per the provisions of Government

Resolution dated 12/12/2011 and allow the petitioner to join said services.”

2. It is undisputed that the Petitioner has been selected and is eligible for issuance of an appointment order, but for the fact that Respondent No. 5 directed the Petitioner to produce a validity certificate and until then, his appointment has been put on hold.

3. This issue is no longer *re-intergra*. In ***Shrikant s/o. Chandrakant Saindane vs. State of Maharashtra & Ors., 2012 (1) Mh.L.J. 787***, this Court has concluded 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 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 v. State of M.P., 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.”

4. The Petitioner has been selected to be appointed as a Shikshan Sevak. For 3 years, he would continue to remain a Shikshan Sevak. Naturally, he would not be confirmed as an Assistant Teacher until he completes this period. Hence, the Petitioner can be put to equitable terms and he can be appointed as a Shikshan Sevak in light of the law laid down in *Shrikant s/o. Chandrakant Saindane (supra)*.

5. In view of the above, **this Writ Petition is disposed off** with the following directions:

(a) The competent Caste Scrutiny Committee shall decide the proposal of the Petitioner for grant of validity, within a period of one year from today.

(b) The Petitioner tenders his email address (manesh191.my@gmail.com) and Whatsapp number (7385449744) for easy correspondence.

(c) The Committee and the Petitioner shall enter into correspondence on above email address / Whatsapp number.

(d) The Petitioner shall not delay the pending proceedings and shall render wholehearted cooperation.

6. Until the claim of the Petitioner for validity certificate is decided, the Petitioner would work as a Shikshan Sevak and would not be entitled for any service benefits of whatsoever nature until his claim is validated, either by the Committee or by this Court.

7. With above direction, **this Writ Petition is disposed off.**

(M. M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)