



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1368 OF 2018

Rajaram s/o Namdev Devkar,
Age 47 years, Occupation – Service,
R/o Chandol, Tq. District Buldhana.

.... **PETITIONER**

VERSUS

1) Shivaji Education Society,
Amravati, through Secretary,
Camp Amravati, Tq. District Amravati.

2) State of Maharashtra,
through its Education officer (Secondary),
Buldhana, Tq. District Buldhana.

.... **RESPONDENTS**

Mr. M.V. Bute, Counsel for the petitioner,
Mr. K.P. Mahalle, Counsel for respondent No.1,
Mr. A.M. Kadukar, AGP for respondent No.2.

**CORAM : NITIN W. SAMBRE
& ABHAY J. MANTRI, JJ.**

DATED : 2nd SEPTEMBER, 2024

ORAL JUDGMENT : (Per : NITIN W. SAMBRE, J.)

Heard. Rule. Rule is made returnable forthwith by consent of the learned Counsel for the parties.

2. The challenge is to the notice dated 20-11-2017 issued by respondent No.1 employer as it is claimed that the petitioner's appointment was from Scheduled Tribe category and the petitioner has failed to produce the Validity Certificate.

3. Mr. M.V. Bute, learned Counsel appearing for the petitioner would urge that the petitioner has submitted the Caste Certificate dated 03-7-2003 issued by the Sub-Divisional Officer, Buldhana certifying that the petitioner belongs to 'Koli', which is a Special Backward Class. According to the learned Counsel Mr. M.V. Bute, the order of appointment issued in favour of the petitioner does not speak his appointment was from the reserved category. He would substantiate his contention from the appointment order No.4013/1997 dated 08-1-1997. He would further claim that the appointment of the petitioner was duly approved as an Assistant Teacher without mentioning the category in which the petitioner was appointed.

4. In this background, it is claimed that respondent No.2 vide communication dated 24-4-2007, based on the caste certificate dated 03-7-2003, has considered and allowed the claim of the petitioner of being appointed from Special Backward Class Category. That being so, it is claimed that the impugned order is not sustainable.

5. Mr. M.V. Bute, learned Counsel appearing for the petitioner would draw support from the judgment in the matter of ***Miss Sudha d/o Vasant Balsaraf v. Shivaji Education Society, Amravati*** and others decided on ***11-3-2020*** so as to claim that the issue is squarely covered.

6. As against above, Mr. K.P. Mahalle, learned Counsel appearing for respondent No.1 through pursis dated 02-9-2024 has placed on record the true copy of the Resolution No.1 dated 06-10-1996 so as to claim that the issuance of order impugned is justified as the selection and appointment of the petitioner was from Scheduled Tribe category. Accordingly, he would urge that in view of the mandate provided under 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 mandatory that the petitioner must produce the validity certificate, failing which the services of the petitioner are required to be terminated.

7. Mr. A.M. Kadukar, the learned Assistant Government Pleader would urge for passing of appropriate order in the facts of the case.

8. We are appreciated the submissions.

9. The documents which are produced on record in the form of Caste Certificate dated 03-7-2003, the appointment order dated 08-1-1997, the approval order passed by the Education Officer, establish that the petitioner was appointed from Special Backward Class category and not from the Scheduled Tribe category.

10. Had it been the case that the petitioner's appointment was pursuant to the Resolution No.1 dated 06-10-1996 as has been produced by the learned Counsel Mr. K.P. Mahalle, the said would have been reflected not only in the appointment order but also in the service book of the petitioner.

11. In the aforesaid background, it cannot be said that the selection and appointment of the petitioner was from Scheduled Tribe category. Rather the petitioner's appointment was from Special Backward Class category.

12. That being so, we deem it appropriate to allow the present petition thereby quashing and setting aside the impugned order dated 20-11-2017. We hereby declare that the appointment of the petitioner is from Special Backward Class category and accordingly entitled for the consequential benefits.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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