



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

WRIT PETITION NO.2756 of 2016

Sau. Shashikala w/o Keshav Dhakite

vs.

The State of Maharashtra through its Principal Secretary, Woman and Child Development
Department, Mumbai and others.

Shri S. K. Pardhy, Advocate for petitioner.

Shri Amit Madiwale, AGP for respondents.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 10th JANUARY 2024.

P. C.

The challenge raised in this writ petition is to the show cause notice dated 30th April, 2016 issued by the respondent no.2-Commissioner, Woman and Child Development, M.S., Pune, whereby the petitioner was called upon to explain as to why she should not be prosecuted for furnishing false information in regard to her caste/tribe.

2. It appears that by the order dated 18th July, 2013 passed by the Scrutiny Committee, the caste claim of the petitioner as that of belonging to 'Halba' Scheduled Tribe came to be rejected with further direction to initiate criminal prosecution against the petitioner.

3. The petitioner feeling aggrieved by the aforesaid order, approached this Court by filing petition being Writ Petition No.5010 of 2023 which was partly allowed vide order dated 28th October, 2013. As the petitioner was not given an opportunity of hearing, the order passed by the Scrutiny Committee dated 18th July, 2013 came to be quashed and set aside.

4. Pursuant to the order of this Court dated 28th October, 2013 referred above, fresh order dated 21st November, 2013 came to be passed by the Scrutiny Committee, after hearing the petitioner, whereby the caste claim of the petitioner came to be negated. However, when the fresh order was passed by the Committee on 21st November, 2013, there was no direction about initiation of prosecution against the petitioner.

5. It appears that the petitioner stood superannuated. On the basis of the order dated 18th July, 2013 passed by the Scrutiny Committee, the respondent-Employer claims to be an authority to initiate criminal prosecution against the petitioner and accordingly issued a show cause notice dated 30th April, 2016 to the petitioner.

6. The fact remains that the petitioner has approached this Court against the show cause notice dated 30th April, 2016. Her contention is that the order to initiate prosecution passed by the respondent-Scrutiny Committee on 18th July, 2013 was set aside by this Court vide order dated 28th October, 2013 and a fresh order passed by the Scrutiny Committee on 21st November, 2013 does not show any cause for initiation of criminal prosecution against her is sought to be relied upon by the petitioner for the purpose of questioning the show cause notice.

7. In the aforesaid background, we are of the view that it is open for the petitioner to bring the aforesaid fact to the notice of the respondent-employer. We however expect that the respondent-employer to be sensitive to the aforesaid fact of the absence of any direction in the fresh order passed by the Scrutiny Committee dated 21st November, 2013 about initiation of prosecution against the petitioner.

8. Keeping such right reserved in favour of the petitioner, the petitioner to file her reply to the show cause notice and with further observation that the respondent-Employer shall be sensitive to the aforesaid fact, we deem it appropriate to dispose of the writ petition.

9. With these directions, the writ petition stands disposed of. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)