



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

Writ Petition No.4636 of 2024

[Nivrutti S/o Gondu Ingle **VERSUS** The Chief Secretary, General
Administration Department, Mantralaya, Mumbai and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's order
Registrar's orders.

Shri S.R. Narnaware, Counsel for Petitioner.
Shri S.M. Ghodeswar, Assistant Government Pleader for
Respondent Nos.1 to 3 and 6.

CORAM : NITIN W. SAMBRE AND VRUSHALI V. JOSHI, JJ.

DATE : OCTOBER 22, 2024

P. C. :

1. Heard Shri Narnaware, learned counsel for the petitioner.
2. By the present petition, the petitioner has sought the relief of setting aside the communication dated October 20, 2022 at Annexure-9 issued by the respondent No.6- Assistant Commissioner (Backward Class Cell), Divisional Commissioner Office, Amravati Division, Amravati and further sought a declaration that the petitioner was already absorbed against Special Backward Class category. A consequential relief was sought of quashing and setting aside the communication dated August 26, 2024 at Annexure-18 issued by the respondent No.6. Vide the impugned communications at Annexures- 9 and 18, it was informed by the respondent No.6 that the employees who were promoted and absorbed on a higher post is illegal.

3. It is the case of the petitioner that he was never promoted but continued on the post of Assistant Teacher.

4. The respondent No.6, vide impugned communication dated August 26, 2024, has again informed the employer of the petitioner to deal with the issue of the services of the petitioner, as the entry of the petitioner was against the seat reserved for the Scheduled Tribe category.

5. Shri Narnaware, learned counsel for the petitioner, has invited our attention to the judgment delivered by this Court in **Writ Petition No.4613 of 2024 (Dilip S/o Pandurang Sapkale Versus The Chief Secretary, General Administration Department, Mantralaya, Mumbai and others)** on September 30, 2024. According to Shri Narnaware, the issue is squarely covered by the said judgment, rather the case of the petitioner is that the petitioner was never promoted but continued on the post of Assistant Teacher reserved for Special Backward Class category.

6. We have considered the submissions advanced by the learned counsel for the petitioner in the light of the resistance shown by the learned Assistant Government Pleader for the respondent Nos.1 to 3 and 6. It is apparent from the record that the petitioner's services were regularized in Special Backward Class category and he has already produced a certificate to that effect. The said services were duly approved by the respondents. The fact remains that the petitioner has put in a long length of service, i.e. almost 33 years.

7. In the wake of above, the impugned communications at Annexures- 9 and 18 dated October 20, 2022 and August 26, 2024 respectively, are hereby quashed and set aside.

8. We direct the protection of service be extended to the petitioner as Assistant Teacher against Special Backward Class Category.

9. The petition is allowed and disposed of in the aforesaid terms.
No costs.

(VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)