



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

WRIT PETITION NO. 5990 of 2024

Sanjay Laxman Dandare

vs.

Scheduled Tribe Certificate Scrutiny Committee Nagpur and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr.A.M.Sudame, Advocate for petitioner.

Mr.N.S.Rao, Additional Government Pleader for respondent no.1.

CORAM :- BHARATI DANGRE AND ABHAY J. MANTRI, JJ.

DATE :- 8th OCTOBER, 2024

1. Learned counsel Mr. Sudame, in support of the relief in the writ petition, would specifically rely upon the order passed by the Additional Commissioner, Tribal Development, Nagpur, in an appeal preferred by him along with others, who were aggrieved by the invalidation of their caste claim and it is his specific contention that the appeal was partly allowed on 09.10.1986, when the appellate authority directed that the order shall govern the disposal of 45 Schedule Tribe Caste certificates.

It is worth to note that the appellate authority by taking note of the grounds of invalidation of the appellant (present petitioner) being that he belong to Halba Koshti Caste and not Halba Scheduled Tribe, relied upon the decision of the High Court in case of **Milind Katware and ors. Vs. State of Maharashtra and ors.** (Writ Petition No. 2944 of 1985) which had concluded that

Halba Koshties are “Halbas” as the conclusion derived was; “Halba Koshti is a sub division of main tribe Halba-Halbi as per entry no.19 in the Act as applied to the State of Maharashtra”.

As the State of Maharashtra, which had filed a Special Leave Petition against the said judgment, the appellate authority took a note of the interim order dated 14.07.1986 passed by the Apex Court, where the Special Leave was granted and though it refused to grant stay to the judgment of the High Court, declared that subject to the condition that Halba Koshtis will be entitled to the admissions to the seats reserved for Scheduled Tribe, on the basis of High Court Judgment, provided the authorities granting admission are satisfied that their parents have an income of less than Rs.7200/- per annum.

2. In the light of this order, the appeals were disposed off and it is the contention of Mr. Sudame that based upon this declaration from the appellate authority he secured an employed with the MSEB in the year 1989 and continued to work, till his services was terminated on 09.02.2024 pursuant to conclusion of a departmental inquiry.

Worth it to note that the petitioner during the pendency of the disciplinary proceedings submitted his claim for verification on 01.01.2024 and on 18.09.2024 the Committee rejected the claim, which resulted into the termination of his services by declaring his appointment itself to be *void ab-initio* at the instance of his

employer.

The respondent No.3 also issued a communication to the petitioner for deposit of an amount of Rs.19,54,244/- on 27.09.2024 and this is the cause for filing of the present writ petition.

3. In the wake of the order passed by the appellate authority, *prima facie*, we have to determine, whether because of the change in the law, since the decision delivered by the Bombay High Court was reversed by the Apex Court in the year 2001, whether the respondent authorities are justified in recovering the amount from the petitioner and particularly when he was protected by the order of the Commissioner.

4. Hence, we issue notice to the respondent Nos.2 and 3 by making the same returnable on 19/11/2024.

In addition to the court notice, the petitioner is at liberty to serve the notice by private mode of service.

Learned AGP waives notice on behalf of respondent No.1.

By way of an *ad-interim* order, we grant stay of the impugned communication dated 27.09.2024 passed by the respondent No.2, contemplating recovery of an amount of Rs. 19,54,244/- from the petitioner.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE , J.)