



(This order is corrected pursuant to the Speaking to the Minutes order dated 02.09.2025)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7850 OF 2020

YOGESH WAMANRAO RAMGIRWAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for the Petitioner : Mr. S. L. Bhapkar

AGP for Respondents-State : Mr. P. K. Lakhotiya

...

CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : August 20, 2025

ORDER :-

1. The petitioner was appointed way back on 15th May, 1995 as Programmer (Computer) with the respondent No. 2 for a period of 29 days. His appointment was continued time to time. He continued to work on such post 1998 as well. Thereafter, the State Government took a policy decision and issued a Government Resolution (henceforth "GR" for short) dated 27.03.2003 regularising the services of the petitioner and the like employees. The GR was mainly issued to regularise irregular appointments. The said GR refers to the earlier GR of 1999 wherein the services of the employees who had rendered service for a period of one year, were decided to be regularised.

2. Pursuant to the said GR, the appointment order was

issued to petitioner on 25.08.2003. The petitioner joined on 01.09.2003. During his continuance of service, relying on the judgment of the Apex Court in the Case of **Chairman and Managing Director, FCI vs Jagdish Balaram Bahira (AIR 2017 SC 3271)**, the respondent No. 1 transferred the petitioner's services on supernumerary post. It called upon the petitioner to submit his Tribe Certificate for scrutiny by the Scrutiny Committee. The petitioner has, therefore, approached this Court mainly on the ground that his appointment on the post of the Programmer has no relation with his caste. His service record indicate him to have belonged to 'OBC'.

3. Learned AGP would submit that the petitioner had applied for the post of the Programmer. In his application, Admit Card and even the document pertaining to the scrutiny of his documents, he claimed to have belonged to 'Chhatri' Scheduled Tribe. Our attention was adverted to the affidavit-in-reply to substantiate the respondent No. 1 to have rightly called upon the petitioner to submit his Tribe Certificate for scrutiny. According to the learned AGP, when the petitioner had preferred application for appointment to a post reserved for Scheduled Tribe Category, he ought to have submitted his Tribe Certificate for verification.

4. We have considered the submissions advanced and pursued the documents relied on. It is true that in certain documents, the petitioner way back in 2001, claimed to have belonged to Scheduled Tribe. He had made application to Regional Secondary Services Board, for the post of Programmer (Computer). In the said application, he had claimed to have belonged to scheduled tribe. The record, although, indicates the petitioner had preferred an application for securing a job claiming to have belonged to Scheduled Tribe Category, he did not join the post. It is only on 27.03.2003, the Government issued a GR for regularising the services of the employees whose recruitment was found to have been irregular. The said GR indicates that services of about 288 candidates were to be regularised. In that regard, earlier GR of September 1999 was issued. The GR of 2003 was issued since the State found that about 20 candidates were left out from the earlier GR of 1999. The petitioner was one of those 20 candidates.

5. A plain reading of the GR would indicate that the petitioner was appointed on the post of a Programmer by virtue of him to have served in the past. The GR of 1999 favours the petitioner. There is no record to indicate that the petitioner to have had applied for securing the post claiming to have belonged to Scheduled Tribe Category. Moreover, the gradation list prepared by

the respondent No. 2 and even the document relating to grant time bound promotional scale avenues to the petitioner, he is shown to have belonged to 'Open' Category.

6. As such, the petitioner could make out a case that he was not appointed nor had he ever claimed said appointment on the ground of having belonged to Scheduled Tribe. The respondent No. 1, therefore, ought not to have transferred the petitioner's services on supernumerary post in December 2019 and called upon him to submit his Tribe Certificate for verification.

7. In the result, following order is passed.

ORDER

- (I) The writ petition is allowed.
- (II) The communication / order dated 27.12.2019 passed by the respondent No. 1 is quashed and set aside.
- (III) The petitioner, does not get covered by the directions of the Apex Court in the Case of **Chairman and Managing Director, FCI vs Jagdish Balaram Bahira** (supra).
- (IV) Service benefits, if any, withheld for this reason, by the respondent No. 1, be released forthwith.

(NEERAJ P. DHOTE, J.)

Omkar Joshi

(R. G. AVACHAT, J.)