



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

970 WRIT PETITION NO. 12498 OF 2025

Swapnil Ramkrishna Borse

VERSUS

State Of Maharashtra Through Its Principal Secretary And Others

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Advocate for the Petitioner : Mr. Mahesh Deshmukh h/f Mr. Gite U. B.

AGP for Respondents: Mr. P. S. Patil

Advocate for Respondents No.2 and 3 : Mr. Tambe Rahul A.

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**CORAM : R. G. AVACHAT &
ABASAHEB D. SHINDE, JJ.**

Dated : OCTOBER 16, 2025

ORAL JUDGMENT : - (Per ABASAHEB D. SHINDE, J.)

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally at the stage of admission.
2. By this writ petition under Article 226 of the Constitution of India, the petitioner has put forth the following prayers : -

“A) Issue Writ of Certiorari and/or any other appropriate Writ, Order or in the like nature, thereby quash and set-aside impugned order passed by Resp.no.1 thereby terminated Services of petitioner as “Junior Engineer” dated 22/08/2025.

B) By issuing appropriate Writ or Order in the like nature thereby reinstate the petitioner on his post as Junior Engineer officiating prior to 22/08/2025 with continuity of Services and all benefits.

C) Issue Writ of Mandamus and / or any other

appropriate Writ or Order in the like nature thereby direct the Resp. No.4 - Scrutiny Committee to expeditiously decide Tribe Claim of the Petitioner being "Tokre Koli", Schedule Tribe which is pending from 22/08/2017.

D) Grant Stay to the effect, operation and implementation of impugned Order passed by Respondent No.1 Employer removing petitioner from services from 22/08/2025 and consequentially reinstate the petitioner on his post as Junior Engineer officiating prior to 22/08/2025 with continuity of Services and all benefits, pending hearing and final disposal of instant petition."

3. At the outset the petitioner has categorically averred that the respondent No.4 - Caste Scrutiny Committee against which directions are sought for deciding petitioners caste claim expeditiously is situated at Chhatrapati Sambhajinagar. It is thus submitted that both these aspects constitute a part cause of action within a territorial jurisdiction of this Court. Considering the fact that part cause of action arose within the territorial jurisdiction of this Court we are inclined to entertain this writ petition.

4. Coming on the merits of the matter, the petitioner claims to belong to the 'Tokre Koli', Scheduled Tribe. It is further contended that the respondent No.1 appointed the petitioner as a Junior Engineer from Scheduled Tribe reserve category vide appointment order dated 25-01-2017. It is his case that while he was in service, his caste claim was submitted by his employer to respondent No. 4 - Caste Scrutiny Committee for verification. The proposal for verification of his caste claim was forwarded on 11/22-08-2017, and since then it is pending before respondent No. 4- Caste Scrutiny Committee.

5. The petitioner contends that respondent No. 4 has not decided his caste claim, as a result of which he is unable to submit the caste validity certificate to respondents No. 2 and 3, where he is presently posted by the respondent No.1. During the pendency of the said claim, respondent No. 1 issued the impugned order dated 22/08/2025, thereby terminating the petitioner's service as Junior Engineer solely on the ground of non-submission of the caste validity certificate.

6. It is further submitted that the petitioner had initially

approached the Maharashtra Administrative Tribunal (MAT). However, since MAT could not have issued directions to respondent No. 4 – Caste Scrutiny Committee to decide the caste claim, the petitioner withdrew the original application and has now approached this Court.

7. Heard the learned Counsel for the petitioner, the learned Counsel for respondents No. 2 and 3, and the learned AGP for the respondent/State.

8. The learned Counsel for the petitioner contends that it is not the petitioner's fault that respondent No. 4 has not decided his caste claim, as the timing of such decision is beyond his control. He submits that due to the inaction of respondent No. 4, the petitioner could not submit his caste validity certificate to respondents No. 1 to 3.

9. It is further submitted that despite the petitioner not being at fault, respondent No. 1 terminated his services merely on the ground of non-submission of the caste validity certificate. The learned Counsel relied on the judgment of this Court in *Shrikant Chandrakant Saindane and others vs. State of Maharashtra and others*, 2012 (4) Bom. C.R. 293, and submits that a candidate cannot be made to

suffer for delay on the part of the Caste Scrutiny Committee in deciding the claim, as it is not within the candidate's control.

10. The learned Counsel for the petitioner while relying on the judgment of this Court in the case of *Shrikant Chandrakant Saindane (Supra)*, would submit that in an almost similar situation, this Court, struck down Condition No. 7 of the Government Resolution dated 05/11/2009 by which appointments or promotions of the petitioners therein were withheld solely on the ground that the caste claims of the concerned petitioners were pending before the Caste Scrutiny Committee and that they have failed to submit their caste validity certificates within stipulated period. This Court, in paragraphs 14, 15, and 16, observed as under : –

“14. We are of the view that the said statement has been made by the said officer under an impression that the members of the Committees are possessed with some divine powers which would permit them to clear 26900 cases in one month. The said task is humanly impossible. The experience shows that the Committees, at times, take decades to decide the matter and in some cases the matter is required to be remanded on one or on number of occasions. One of the instances would be the petitioner in Writ Petition No.5340 of 2010, whose

claim is pending before the Committee right from 2002.

15. No doubt, that the purpose of the said condition is with a noble aim of ensuring that the reserved seat should be occupied by a candidate belonging to that particular reserved category and no candidate or person, not belonging to reserved category, should usurp the said post. However, at the same time, the Court cannot ignore the fact that it is not in the hands of the candidates to obtain the certificate before they appear for interview or apply for a particular post. If the impugned condition is upheld, an eventuality cannot be ruled out that a candidate will have to wait till he reaches the maximum age to apply for the post and is given the validity certificate after he becomes age bar. In such a situation, a candidate belonging to a particular backward class, would be deprived of availing the benefits, though, in law, he is entitled to.

16. It is a settled principle of law that a party cannot be asked to do an impossible act. Reference, in this respect, can be made to a judgment of the Apex Court in the matter of Mohammed Gazi Vs. State of M.P. & others, reported in 2000 (3) SCALE 6.”

11. On the other hand, the learned AGP appearing for the State submits that, considering the fact that several caste claims are

pending adjudication, it is humanly impossible to decide all such claims within the stipulated period. The learned AGP further submits that, in so far as the impugned termination order is concerned, the same is in tune with Section 8 of 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*, and as per terms and conditions of the appointment order, thus the respondent No.1 – State has rightly passed the impugned order.

12. The learned Counsel for respondents No.2 and 3 opposed the writ petition by contending that the petitioner has miserably failed to submit the caste validity certificate despite respondents No.2 and 3 having directed him to do so within the stipulated period. The learned Counsel for respondents No.2 and 3 further submits that, since the impugned order terminating the petitioner for non-submission of the caste validity certificate has already been acted upon by relieving him from service, the prayers made in the writ petition cannot now be considered.

13. After having considered the rival submissions, as rightly

pointed out by the learned Counsel for the petitioner by relying upon the observations of this Court in paragraphs 14, 15, and 16 of the judgment in *Shrikant Chandrakant Saindane (supra)*, it is evident that the petitioner has no control over when his caste claim would be decided by the respondent No.4 - Caste Scrutiny Committee,. No doubt in *Shrikant Chandrakant Saindane (Supra)* that was a case of withholding of the appointments/ promotions of those petitioners where as in the instant case we are dealing with issue as regards termination of the petitioner however, as held by the Hon'ble Apex Court in *Mohammed Gazi vs. State of M.P. and Others*, reported in (2000) 4 SCC 342, a party cannot be compelled to perform an impossible act. Considering this settled legal position and in the light of ratio laid down in *Shrikant Chandrakant Saindane (supra)*, we are of the considered view that the petitioner cannot be faulted for the delay in the decision of his caste claim, and his services cannot be terminated solely on the count that the petitioner has failed to submit his caste validity certificate within six months.

14. We would also like to add that this Court is coming across several writ petitions seeking directions for expeditious disposal of caste claims of students, employees, and other aspirants whose

claims have been pending for years together. Be that as it may, the fact that it is practically impossible for the Caste Scrutiny Committee to decide every caste claim immediately, does not mean that the petitioner should be made to suffer. We therefore are of the view that the impugned order dated 22/08/2025 passed by the respondent No.1, thereby terminating the services of the petitioner as Junior Engineer, is unsustainable and deserves to be quashed and set aside.

15. We are further of the view that, considering the peculiar facts and circumstances of the case, it is necessary to direct the respondent No.4 - Caste Scrutiny Committee to decide the caste claim of the petitioner as expeditiously as possible. In view of the above discussion, we are inclined to allow the writ petition by passing the following order :

ORDER

(A) The impugned termination order dated 22/08/2025 issued by respondent No.1, thereby terminating the services of the petitioner as Junior Engineer on the ground of non-submission of the caste validity certificate, is hereby quashed and set aside.

(B) Respondents No.3 and 4, with whom the petitioner was

serving, are directed to reinstate the petitioner to his original post forthwith.

(C) The respondent No.4 - Caste Scrutiny Committee is directed to decide the caste claim of the petitioner as expeditiously as possible, and in any case, within a period of two month from today.

(D) It is further directed that, till the respondent No.4 - Caste Scrutiny Committee decides the proceedings of caste verification of the petitioner, the respondents No.1 to 3 shall not take any adverse action against the petitioner.

Rule is made absolute in the above terms. No order as to costs.

(ABASAHEB D. SHINDE, J.)

(R. G. AVACHAT, J.)

vj gawade/-.