



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

WRIT PETITION NO. 3499 OF 2024

Pravin s/o Ashokrao Nehare
Aged about : 29 Years, Occu : Service; R/o
Prakash Nagar Colony, Building No. F-58/9,
Khaparkheda, Nagpur.

... PETITIONER

VERSUS

1. The Scheduled Tribes Caste Certificate Scrutiny Committee, through its Member Secretary and Deputy Director, Nagpur.
2. The Director,
Maharashtra State Power Generation Company Ltd. (MAHAGENCO), 6th Floor,
Prakashgad Bandra (E), Mumbai.
3. The Chief Engineer
Maharashtra State Power Generation Company Limited (MAHAGENCO),
Khaparkheda Thermal Power Station,
Khaparkheda, Nagpur.

... RESPONDENTS

Ms. Rashi Nagrare, Advocate h/f Mr. Ashwin Deshpande, Advocate for Petitioner.

Mr. B. N. Mohta, Advocate for Respondent Nos.2 and 3.

Mr. A. M. Joshi, AGP for Respondent No.1/State.

CORAM

: SMT. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.

ARGUMENTS HEARD ON : JULY 24, 2025.

PRONOUNCED ON : AUGUST 06, 2025.

JUDGMENT [PER PRAVIN S. PATIL, J.]

. Heard. **Rule.** Rule made returnable forthwith. By consent of the parties, Petition is taken up for final hearing at the stage of admission.

2. By this Petition, Petitioner has challenged the order dated 29/1/2024 passed by the Respondent No.1/Scheduled Tribes Caste Scrutiny Committee, Nagpur (*for short, 'the Scrutiny Committee'*), thereby rejecting the caste claim of the Petitioner as 'Gond Gowari' Scheduled Tribe category and cancelling and confiscating the Certificate dated 25/2/2019 issued by the Sub Divisional Officer, Arvi, District Wardha. However, the Petitioner has restricted his claim only for absorption on supernumerary post in terms of the Government Resolution dated 14/12/2022.

3. It is undisputed fact that the Petitioner, after obtaining the caste certificate of 'Gond Gowari' on 25/2/2019, applied for the post of 'Technician' in pursuance of advertisement issued by the Respondent No.2. Accordingly by following due procedure of law, Petitioner was selected against the post of 'Technician' on temporary basis vide appointment order dated 12/3/2021 against the seat reserved for Scheduled Tribe category.

4. The Petitioner joined the service with effect from 1/4/2021. As

per the appointment order, a specific condition was stipulated that appointment of the Petitioner is subject to furnishing the caste validity certificate. It is also made clear to the Petitioner that if the Petitioner failed to furnish the caste validity certificate, his appointment will be treated as cancelled. As such, with this understanding Petitioner started rendering service with the Respondent No.3.

5. It is seen from the record that after the appointment, Petitioner's caste claim was not forwarded immediately to the Scrutiny Committee. Therefore, the employer issued communication dated 16/2/2023, and accordingly, his caste claim was forwarded on 6/3/2023.

6. It is stated that as per the provisions of 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 (*for short, 'the Act of 2000'*), the burden is on the candidate to prove the caste claim before the Scrutiny Committee, either on the basis of documents or on the basis of affinity test. However, it seems that Petitioner failed to prove his caste claim before the Scrutiny Committee, and accordingly, by order dated 29/1/2024 the Respondent No.1/Scrutiny Committee invalidated the caste certificate of the

Petitioner by holding that Petitioner failed to prove that he belongs to the caste of 'Gond Gowari'.

7. As a consequence of invalidation of his caste claim, the Respondent No.3 issued show cause notice to the Petitioner as to why his services should not be terminated in terms of conditions stipulated in the appointment order. The Petitioner failed to satisfy the Respondent No.3, and accordingly, by order dated 19/11/2024 the services of Petitioner are terminated.

8. It is seen from the record that at the time of issuing notices to the Respondent, the statement of Petitioner was recorded that he is not pressing the challenge to the order of Scrutiny Committee passed on 29/1/2024 and restricted his claim for absorption on supernumerary post.

9. The Petitioner, in support of his claim, filed additional affidavit dated 6/2/2025 and thereby relied upon the Government Resolution dated 14/12/2022 to get the benefit of absorption on the supernumerary post.

10. The learned Counsel for Respondent Nos.2 and 3 as well as the learned AGP, in response to the notices issued by this Court, appeared in the matter and strongly opposed the contentions made by the Petitioner. It is

stated on behalf of the Respondent Nos.2 and 3 that appointment of the Petitioner was on temporary basis from Scheduled Tribes category, and therefore, no right has been accrued to the Petitioner on the post. Furthermore, in the appointment order itself specific condition was stipulated that in case Petitioner failed to furnish the caste validity certificate, his appointment will be treated as cancelled. In such scenario, no question arose to grant the benefit of Government Resolution dated 14/12/2022. Hence, it is stated that Petition being devoid of merit, is liable to be dismissed.

11. We have considered the submissions made by the learned Counsel for both sides and perused the record as well as case laws pointed out by the Petitioner.

12. In the present Petition, it is admitted fact that appointment of the Petitioner was on temporary basis with clear understanding that in case Petitioner failed to furnish the caste validity certificate, his appointment will be treated as cancelled. As such, considering the nature of appointment, no right was created in favour of the Petitioner, and consequently, Petitioner cannot claim equity like to the employees granted by the State Government vide Government Resolution dated 21/12/2019. Hence, considering the peculiar

facts of the present case, no case is made out for grant of benefit of absorption on supernumerary post.

13. It will be relevant to mention herewith that the Hon'ble Apex Court of India, in the case of ***Chairman and Managing Director, FCI and Others V/s Jagdish Balaram Bahira & Ors. in Civil Appeal No. 8928 of 2015 along with other connected Appeals***, held that a person not belonging to specific category or obtained the appointment by procuring a certificate, which found to be invalid, meaning thereby a meritorious reserved candidate is deprived from the benefit of reserved category for whom the post was reserved. Hence, such person who failed to establish his caste claim, cannot be continued in service, and accordingly, the person whose caste claim is invalidated, those employees should be terminated.

14. In view of this Judgment of Hon'ble Supreme Court, State of Maharashtra had issued the Government Resolution initially dated 21/12/2019, whereby a system was created to identify the post of Scheduled Tribes, where the Officers appointed could not get the caste certificate validated and as a special measure and on humanitarian ground continued the said Officers by creating supernumerary post on a temporary basis for eleven months. But, here in the present case, the Petitioner has rendered the service

on temporary basis merely for a period of two years and his case does not fall in the category, which State Government has created as a special measure.

15. It is further pertinent to note that at the time of appointment itself Petitioner was aware of the consequences in case of invalidation of his caste claim. Therefore, the person, who has obtained the appointment order with clear understanding that in case he failed to furnish the caste validity certificate, his services will be terminated, cannot be permitted to take the benefit of Government Resolution dated 21/12/2019 as well as 14/12/2022.

16. Hence, for the aforesaid reasons, we do not find merit in the submission, and accordingly, the Petition which is devoid of the merit, is hereby dismissed.

17. Rule is accordingly discharged. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]