



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1395 OF 2024

Sanjay s/o Laxman Dandare
Aged about 57 years Occ.
r/o A-1, 26 Bhagirath Swavlambi
Nagar Nagpur – 440022

...PETITIONER

VERSUS

1. Maharashtra State Electricity
Transmission Company Ltd. Through
its Chairman-cum-Managing Director
o/o Prakashganga C-19 7th Floor
Bandra Kurla Complex Bandra (East)
Mumbai 400051
2. The Executive Engineer
EHV Project Division 1 2nd Floor
Vidyut Bhavan Katol Road Nagpur
440013
3. State of Maharashtra
General Administration Department
Through its Secretary, Madam Cama
Marg, Hutatma Rajguru Square,
Mantralaya Mumbai – 32

...RESPONDENTS

WITH

WRIT PETITION NO. 5990 OF 2024

Sanjay s/o Laxman Dandare
Aged about 58 years Occ.
r/o A-1, 26 Bhagirath Swavlambi
Nagar Nagpur – 440022

...PETITIONER

VERSUS

1. Schedule Tribe Certificate Scrutiny
Committee Nagpur through its
Chairman, Adivasi Vikas Bhavan
Goripeth Nagpur - 440010
2. Maharashtra State Electricity
Transmission Company Ltd.
Through its Chairman-cum-
Managing Director o/o
Prakashganga C – 19 7th Floor Bandra
Kurla Complex Bandra (East)
Mumbai-400051
3. The Executive Engineer
EHV Project Division - 1 2nd Floor
Vidyut Bhavan Katol Road Nagpur
440013

...**RESPONDENTS**

Shri A.M. Sudame, Advocate for petitioner
Shri A.S. Fulzele, Addl.GP for respondent/State
Shri D.M. Kale, Advocate for respondent Nos. 1 & 2 in WP 1395/2024 &
respondent Nos. 2 & 3 in WP 5990/2024

CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 23.01.2026
PRONOUNCED ON : 11.02.2026

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Both these writ petitions are being disposed of by this common judgment since the petitioner in the present petition is the same, and the subject matter of the present petition is somewhat overlapping.

2. The Writ Petition No. 1395/2024 challenges the order of termination dated 09.02.2024 passed by the respondent No. 2 and confirmed by the Appellate Authority on 15.04.2024. Writ Petition No. 5990 of 2024 challenges the order dated 18.09.2024 passed by the Schedule Tribe Caste Certificate Scrutiny Committee, invalidating the caste claim of the petitioner.

3. **Rule.** Rule is made returnable forthwith in both matters. Heard finally by the consent of the parties.

4. The facts as are emerging from both petitions are under: On 22.06.1982, the Executive Magistrate, Nagpur, issued a Caste Certificate in favour of the petitioner certifying that he belongs to

the 'Halba' Schedule Tribe, however, the same was invalidated by the Director of Social Welfare on 25.10.1982. The said order of invalidation of the caste claim was challenged by the father of the petitioner, he being a minor, under the provisions of the Government Resolution dated 29.10.1980. On 04.09.1985, this Court decided Writ Petition No. 2294/1984, **Milind Katware Vs. State**[1987 Mh.L.J. 572], and held that it was permissible to enquire whether any sub-division of a tribe was part and parcel of the tribe mentioned therein. In the said judgment, this Court also declared that 'Halba-Koshti' is a sub-division of the main tribe, i.e., 'Halba'/'Halbi'.

5. In an appeal filed by the State of Maharashtra, the Hon'ble Apex Court on 14.07.1986 though did not stay the effect and operation of the judgment of this Court, but directed that subject to the condition that 'Koshti' will be entitled to admission to the seats reserved for Scheduled Tribes on the basis of the High Court judgment provided the authorities granting admission are satisfied that they or their parents have an income less than Rs.7200/- per annum. The Additional Commissioner Tribal Development, Nagpur, on 09.10.1986, by a common order decided 45 appeals challenging

their respective invalidation. The appeals were partially allowed in view of the judgment of the Division Bench of this Court, as also the interim order of the Hon'ble Supreme Court referred supra.

6. In the backdrop of these facts, the erstwhile Maharashtra State Electricity Board conducted interviews for the post of Surveyors, wherein the petitioner was selected against the post reserved for a Scheduled Tribe candidate. Thereafter, on 30.09.1989, the said employer, i.e., MSEB, requested the Additional Commissioner, Tribal Development, Nagpur, to verify the claim of the petitioner. The said authority, i.e., the Additional Commissioner, called upon the petitioner to appear before him on 23.10.1989, on which date the petitioner appeared and submitted a copy of the judgment rendered by the Commissioner on 09.10.1986.

7. The MSEB issued an order of appointment appointing him on the post of surveyor on 30.11.1989. Thereafter, on 28.11.2000 the Constitution Bench of the Hon'ble Supreme Court allowed the appeal filed by the State of Maharashtra wherein the judgment of this Court was set aside. The Hon'ble Apex Court held that it is not at all permissible to hold any enquiry or let in any evidence to

decide or declare that any tribe or tribal Community is included in the general name even though it is not specifically mentioned in the entry concerned in the Constitution (Schedule Tribe) Order, 1950.

8. On 21.12.2019, with an intention to give effect to the judgment of the Hon'ble Supreme Court in the case of **Food Corporation of India Vs. Jagdish Bahira**, the State of Maharashtra issued a resolution according to which all employees whose caste claim had been rejected, or had given up their caste claims, or had obtained a validity certificate belonging to Special Backward Classes, were placed on supernumerary post for a period of 11 months. Pursuant to this resolution, the respondent MSETCL issued an Administrative Circular No. 563 for implementing the terms and conditions of the said Government Resolution.

9. The respondent, MSETCL, thereafter, on 08.06.1922, issued a show cause notice to the petitioner, calling upon him to get his caste claim verified. The said notice was duly replied on 14.09.2022, but on 15.05.2023, the respondent MSETCL issued a charge-sheet alleging misconduct against the petitioner for non-

submission of a validity certificate. On a request made by the petitioner to refer his caste claim for verification, the respondent granted him the said permission vide order dated 22.12.2023. However, on 09.02.2024, the respondent No. 2 passed an order thereby terminating the services of the petitioner and treating the service as *void ab initio*. It was further directed that a recovery of the higher pay scale granted to the petitioner be made.

10. The petitioner challenged the said order of punishment before the Appellate Authority, which vide order dated 15.04.2024 upheld the punishment and rejected the appeal of the petitioner. Thus, in Writ Petition No. 1395/2024, both these orders are challenged.

11. In the meanwhile, the Caste Scrutiny Committee invalidated the caste claim of the petitioner vide its order dated 18.09.2024, which is challenged in the said Writ Petition bearing No. 5990/2024.

12. We have heard Shri A.M. Sudame, learned Counsel for the petitioner, learned Additional Public Prosecutor for

respondent/State, and Shri D.M. Kale, learned Counsel for respondent Nos. 2 and 3 in Writ Petition No. 1395 of 2024 and respondent Nos.1 and 2 in Writ Petition No. 5990 of 2024.

13. Learned Counsel for the petitioner submitted that as can be seen from the record, it is an admitted position that, the caste certificate of the petitioner, after its invalidation by the Director of Social Welfare, was challenged in an appeal filed before the Appellate Authority which partly allowed the appeal by relying on the judgment of this Court in the judgment of **Milind Katware Vs. State** and the interim order of the Hon'ble Supreme Court. Thus, the appointment order was issued after due verification of the certificate and the judgment of the appellate authority. It is therefore his submission that no charge of suppression or fraud could have been levelled against the petitioner.

14. It is his submission that the orders imposing a punishment and as confirmed by the Appellate Authority, suffered from non-application of mind, since they do not consider the partial allowing of appeal, challenging rejection of his caste validation, by the appellate authority. He further submits that there is no question of

fraud in the present case, as no conclusion has been recorded by the authority that there exists a *mens rea* or a guilty mind, which is a *sine qua non* for arriving at such a finding. It is his further submission that there is a discrimination being practiced by the employer MSETCL as in the case of one **Subhash Narote**, the said employee has been placed on a supernumerary post, and the petitioner has been terminated. As far as recovery of amount is concerned, he submits that the same is also unsustainable, as the office order dated 27.09 2006 specifically stipulates that those employees who has stagnated in the same post for 6 years or 9 years without advantage of any promotion or higher pay scale were granted the said benefit of higher pay scale and the said office order does not spell out any condition under which the said higher pay scale can be withdrawn by the employer. He therefore submits that the action of the respondents and more particularly respondent No. 2 is unsustainable in law and therefore liable to be quashed and set aside.

15. Per Contra, Shri D.M. Kale, learned Counsel for respondent Nos. 1 and 2 in Writ Petition No. 1395/2024 and respondent Nos. 2 & 3 in Writ Petition No. 5990/2024, i.e., the employer vehemently

opposes the petition. He submits that as the appointment of the petitioner was done on the basis of the Scheduled Tribe reserved category, it was mandatory for him to submit the cast validity certificate of the Scheduled Tribe. By taking us through the record of the matter, the learned Counsel submits that despite repeated letters by the then MSEB to the Deputy Director, regarding the status of the caste validity certificate, there was no response. He also submits that the employee, i.e., the petitioner herein, was also issued various letters for submission of a validity certificate, but he has conveniently chosen to ignore the same. He therefore submits that the employer was left with no option but to issue a show cause notice, and being dissatisfied by the same, to issue a charge sheet.

16. Placing reliance on Regulation No. 12 of the MSETCL Employees Service Regulations, 2012, the learned Counsel submits that the said Regulation stipulates that if an employee is found not eligible in terms of Recruitment Regulations for initial appointment in service or had furnished false information or produced a false certificate, he shall not be retained in service. Similarly, he places reliance on Regulation 16 of the MSEB Classification and Recruitment Regulations, 1961, to buttress his submission. Thus, in

the submission of the learned Counsel for the respondent Nos.1 and 2, the action of the respondents is perfectly legal and valid.

17. We have appreciated the contentions canvassed by the learned Counsel for the respective parties and gone through the record of the matter with their assistance. The facts as stated supra are more or less undisputed. The only question, therefore, which requires to be adjudicated in Writ Petition No. 1395/2024 is whether the employee is guilty of any fraud being practiced on the employer while securing employment. Issuance of caste certificate in the name of the petitioner, its subsequent invalidation, and then the appeal being partly allowed by the Additional Commissioner Tribal Development, Nagpur, are admitted facts and also can be seen from the record of the matter. It can also be seen from the record that while securing appointment, the employer asked the petitioner, i.e., the employee, to submit a caste certificate. The authority, i.e., the Additional Commissioner of Tribal Development, asked the petitioner to appear before it, which he accordingly appeared, and then it was submitted to the employer.

18. Thus, no fault can be found with the action of the employee, i.e., the petitioner. It was a fact that the caste certificate was invalidated, and then it was subsequently partially set aside was well within the knowledge of the employer. Thus, there is no question of any suppression or fraud being practiced by the petitioner/employee. Nothing more was expected of him, and therefore, it cannot be said that he procured employment on the basis of a false caste certificate and/or practiced fraud upon the employee. The order of the respondent No. 2, i.e., the Executive Engineer, does not consider the said facts in their correct perspective and goes on to impose punishment on the petitioner.

19. The order imposing punishment, in our view, therefore cannot withstand the scrutiny of law, it being perverse in nature. Similarly, the order of the Appellate Authority also mechanically confirms the order of the disciplinary authority, and therefore, it also is perverse in nature. In fact, the disciplinary authority has recorded a finding that the caste certificate of the petitioner was invalidated even before appointment. But this finding is contrary to record in as much as the order of the Appellate Authority of partly allowing the appeal was placed before it and also during

departmental enquiry proceedings. As we have already recorded that no fault can be found with the employee regarding suppression or fraud, as he has been charged with. It would therefore be necessary to quash and set aside the order dated 09.02.2024 and the order of Appellate Authority vide order dated 15.04.2024.

WRIT PETITION NO. 5990/2024

20. As far as petition No. 5990 of 2024 is concerned, the petitioner, claiming to be a 'Halba' Schedule Tribe, sent a proposal through his employer for validation of his caste claim.

21. We have heard Shri A.M. Sudama, learned Counsel for the petitioner, as also Shri A.S. Fulzele, learned Additional Government Pleader for the contesting respondent/State.

22. Learned Counsel for the petitioner by taking us through the impugned order passed by the respondent No.1, the Scrutiny Committee, submits that non application of mind is writ large on the face of the order impugned, since it fails to take into consideration the vital fact that the appeal filed by the petitioner against the invalidation of his caste claim was partly allowed, and

not rejected, as has been recorded by the authority. It is therefore his submission that the order is contrary to the record and, therefore, perverse. He further submits that in the said appeal filed by him, he had sought twin reliefs, first setting aside the order of invalidation and declaration that the petitioner belongs to the 'Halba' Scheduled Tribe. The Appellate Authority vide its order dated 09.10.1986 partly allowed the appeal in line with the interim order passed by the Hon'ble Supreme Court in SLP No. 16372/1985. According to the said interim order, the appellants were entitled to admission on the seats reserved for the Scheduled Tribe. He submits that these vital aspects have been ignored by the Scrutiny Committee, rendering the order erroneous.

23. It is further his submission that the Scrutiny Committee has adopted a hyper technical approach in as much as doubting the genuineness of the order dated 09.10.1986, which was a document more than 30 years old, and by virtue of Section 92 of the Bhartiya Saksha Adhiniyam, the Scrutiny Committee ought to have presumed the genuineness of the said document. In nutshell, it is the contention of the learned Counsel for the petitioner that the order cannot withstand the scrutiny of law.

24. Per Contra, the learned Additional Government Pleader, as also the learned Counsel for the employer, submits that the impugned order is perfectly legal and valid in as much as the petitioner has suppressed the fact regarding his earlier invalidation. Thus, the Additional Government Pleader, as also learned Counsel for respondent Nos. 3 and 4 support the order passed by the Scrutiny Committee and the action of recovery being undertaken by the employer.

25. We have appreciated the rival contentions and gone through the order of the Scrutiny Committee. The finding of the Scrutiny Committee that the appeal filed by the petitioner, which was decided on 09.10.1986, is rejected, is contrary to the record as has been rightly submitted by the petitioner. As we have earlier held supra that the petitioner cannot be termed to have played fraud and/or suppressing the said fact from his employer, i.e., the respondent Nos. 2 and 3, since the said facts were within the knowledge of the said employer while granting him appointment on 30.11.1989.

26. However, the oldest document in support of the claim of the petitioner belonging to 'Halba' is of the year 1966, which is a school record of the petitioner himself. But the tax receipts issued in the name of his great-grandfather, i.e., Kishan Laxman Koshti, depict the caste as 'Koshti', and they are the oldest documents dating back to the years 1991 and 1992.

27. Furthermore, as can be seen from the order of the Scrutiny Committee, the petitioner himself had filed an affidavit on 29.04.2024 stating that he is forfeiting his claim to 'Halba' Scheduled Tribe and is ready to avail the benefits of 'Koshti', which comes in Special Backward Classes. Thus, even though it cannot be said that the petitioner secured employment by practicing fraud or suppressing facts, we cannot ignore an important aspect that the petitioner cannot independently prove his claim that he belongs to the 'Halba' Scheduled Tribe. The petitioner had secured employment on the basis of the order of the Appellate Authority, which was in turn based on the interim order of the Hon'ble Supreme Court. The said order of the Appellate Authority cannot in any way help the petitioner to prove his caste claim and he has to do the said exercise independently. Thus, the petitioner has failed

to prove his caste claim. We find no substance in the petition as far as the challenge to the order of the Scrutiny Committee is concerned. Thus, we find no merit in the petition, and the petition is accordingly rejected.

28. We therefore pass the following order :

WRIT PETITION NO. 1395/2024

- i) The Writ Petition is allowed.
- ii) The impugned order of termination dated 09.02.2024, passed by the respondent No. 2, Executive Engineer, EHV Project Division – 1, Nagpur, is quashed and set aside.
- iii) The order of the Appellate Authority dated 15.04.2024 is also quashed and set aside.

29. Writ Petition is allowed in the above terms. Rule is made absolute.

WRIT PETITION NO. 5990 2024

- i) Writ Petition is partly allowed.
- ii) As far as the challenge to the order of the Scrutiny Committee is concerned, the same is rejected. However, for the

reasons recorded by us in Writ Petition No. 1395/2024, the communication dated 27.09.2024, thereby directing recovery of an amount of Rs.19,54,244/-, is quashed and set aside.

30. The Writ Petition is disposed off in the above terms. Rule is made absolute.

(NANDESH S. DESHPANDE, J.)

Jayashree..

(SMT. M.S. JAWALKAR, J.)