

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

...

**WRIT PETITION NO. 3406/2016**

Anil Gangadhar Kohade  
Aged about 46 years, occu: service  
R/o Flat No. 100 "Shivprasanna"  
Shilpa Society, Near Shanidham,  
Narendra Nagar, Nagpur.

**..PETITIONER**

**v e r s u s**

- 1) Scheduled Tribe Caste Certificate  
Scrutiny Committee  
Through its Member-Secretary  
Gadchiroli.
- 2) The Controller,  
Legal Metrology Department  
Maharashtra State, Govt. Barrak No.7  
Free Press Journal Marg  
Nariman Point, Mumbai-440 021.
- 3) Assistant Controller,  
Legal Metrology  
Amravati District, Chaprashipura  
Near Borade Hospital, Amaravati.

..

**...RESPONDENTS**

.....  
Mr. S.D.Khati, Advocate for petitioner  
Mr.VP.Gangane, Assistant Government Pleader for  
Respondent Nos.1 to 3  
.....

**CORAM:** **SMT. VASANTI A. NAIK &**  
**MRS. SWAPNA JOSHI, JJ.**  
**DATED :** **5<sup>th</sup> July, 2016**

**ORAL JUDGMENT: (PER MRS. SWAPNA JOSHI, J.)**

1. **Rule.** Rule made returnable forthwith. The Petition is heard finally at the stage of admission, with the consent of the learned counsel for the parties.

2. By this Writ Petition, the petitioner seeks the protection of his services, in view of the law laid down by the Full Bench of this Court, in the case of **Arun Sonone vs. State of Maharashtra**, reported in **2015 (1)Mh.L.J. 457.**

3. The petitioner was appointed as an Inspector of Legal Metrology by the respondent no.2, vide appointment order dated 21/27<sup>th</sup> May, 1997. The respondent no.2 issued an order dated 22.11.2005 thereby confirming the services of the petitioner with effect from 2.6.2000. The petitioner was issued caste certificate as belonging to 'Halba' Scheduled Tribe, by the Executive Magistrate, Armori, dated 17.9.1983. The caste claim of the petitioner was referred to the respondent no.1-Committee for adjudication, vide order dated 27.05.2016. The caste claim of the petitioner was invalidated holding that the petitioner does not belong to 'Halba' Scheduled Tribe. According to the petitioner since the respondent no.1 had invalidated the caste claim of the petitioner, he apprehends that, on the basis of the order passed by respondent no.1-Committee, the respondent nos. 2 and 3 may, at any point of time, take an action against the petitioner, in respect of his services.

4. Shri S.D.Khati, the learned counsel for the petitioner vehemently argued that in view of the judgment reported in 2015(1) Mh.L.J. 457, the services of the petitioner are to be protected on the ground that, firstly, there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently sought the benefits meant for the 'Halba' Scheduled Tribe and, secondly, the petitioner was appointed before the cut off date i.e. 28.11.2000.

5. Shri V.P.Gangane, the learned Assistant Government Pleader appearing on behalf of the respondent nos.1 to3, does not dispute the legal position. He fairly admits that there is no observation in the order of the Scrutiny Committee that the petitioner had fraudulently secured the benefits meant for 'Halba' scheduled Tribe, except that the petitioner does not belong to 'Halba' Scheduled Tribe.

6. After hearing both the sides and on a perusal of the documents on record, it is noticed that since the petitioner was appointed before the cut off date and since there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for the 'Halba' Scheduled Tribe, the services of the petitioner are required to be protected on the post of Inspector of Legal Metrology, in view of the law laid down by the Full Bench, cited *supra*.

7. For the above-said reasons, the Writ Petition is partly allowed. The Respondent nos.2 and 3 are directed to protect the services of the

petitioner on the post of Inspector of Legal Metrology, on the condition that the petitioner furnishes an undertaking before the respondent no.2 & 3 and also in this Court, within a period of four weeks, that neither the petitioner nor his progeny would claim the benefits meant for 'Halba' Scheduled Tribe, in future.

Rule is made absolute in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE

*sahare*