

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6773 OF 2016

Gajanan s/o Lahuji Gonnade,
Aged about 44 years,
Occupation-Service,
R/o. Shiv Mandir Chowk near
Ravi Navle's House, Sham Nagar,
Chandrapur, Distt.Chandrapur.

.. Petitioner

.. Versus ..

1] Schedule Tribe Caste Certificate
Scrutiny Committee, through its
member Secretary, complex area,
Near Zilla Parishad, Gadchiroli,
District-Gadchiroli.

2] Lokmanya Tilak Smarak Mandal
Through its Secretary, Main Road,
Chandrapur.

3] Head Master,
Lokmanya Tilak Kanya Vidyalay,
Main Road, Chandrapur,
District-Chandrapur.

4] The Education Officer (Secondary),
Zilla Parishad, Chandrapur.

.. Respondents

.....
Shri S.D. Khati, Advocate for the petitioner,
Shri A.S. Fulzele, Additional Government Pleader for respondent nos.1 and 4.
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**CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATED : DECEMBER 16, 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 a direction against the respondent nos.2 and 3 to protect the services of the petitioner, in view of the judgment of the Full Bench, in the case of Arun Sonone .vs. State of Maharashtra.

3] Brief facts of the case are that, the petitioner was appointed as Peon by the respondent no.3, vide appointment order, dated 31.7.1995. The petitioner claimed to belong to Halba Scheduled Tribe. The caste claim of the petitioner was referred to the respondent no.1-Scrutiny Committee for verification. However, the Scrutiny Committee invalidated the caste claim of the petitioner by the order dated 28.10.2016. The petitioner is simply seeking the protection of his services from the respondent nos.2 and 3.

4] Learned counsel for the petitioner Shri S.D. Khati, contended that the services of the petitioner need to be protected, in view of the judgment of the Full Bench in the case of Arun Sonone .vs. State of Maharashtra, reported in 2015 (1) Mh.L.J. Page 457. He submitted that as per the directions in the said judgment, it is necessary that the petitioner is to be appointed before the cut off date i.e. 28.11.2000 and there should be no observation that the petitioner had fraudulently secured the benefits meant for Halba Scheduled Tribe. Shri Khati, learned counsel, further submitted that the petitioner has fulfilled both these conditions. The petitioner was appointed on 31.7.1995 and caste claim of the petitioner is rejected by the Scrutiny Committee, as the petitioner could not prove the same on the basis of the documents required to

prove that he belongs to Halba Scheduled Tribe as well as the affinity test.

5] Learned Additional Government Pleader Shri A.S Fulzele for the respondent nos.1 and 4 does not dispute the settled position of law, as laid down in the judgment of the Full Bench (*supra*). It is fairly admitted that in the order of the Scrutiny Committee, there is no observation that the petitioner had fraudulently secured the benefits meant for Halba Scheduled Tribe.

6] After hearing both the sides and on a perusal of the record and the judgment of the Full Bench, it appears that the services of the petitioner are required to be protected. The petitioner was admittedly appointed before the cut off date i.e. 28.11.2000. So also, there is no observation in the order of the Scrutiny Committee that the petitioner has fraudulently secured the benefits meant for Halba Scheduled Tribe. The caste claim of the petitioner was invalidated as he could not prove the same on the basis of the documents produced by him before the Scrutiny Committee. The petitioner has fulfilled both the conditions that are required to be satisfied, while seeking the protection of the services, as per the judgment of the Full Bench.

7] In view of the facts and circumstances, the following order is passed :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The respondent nos.2 and 3 are directed to protect the services of the petitioner on the post of Peon, on the condition that the petitioner should furnish an undertaking in this Court and before the respondent nos.2 and 3 that the petitioner would not claim the benefits meant for Halba Scheduled

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Tribe, in future.

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

JUDGE

JUDGE

Gulande, PA