

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

WRIT PETITION NO.5307/2015

PETITIONER : Shri Jagdish s/o Shriram Barapatre
Aged about 42 years, Occupation : Service,
R/o Tilak Nagar Bramhapuri, District
Chandrapur.

...VERSUS...

RESPONDENTS : 1. Scheduled Tribe Caste Certificate
Scrutiny Committee through its
Member/Secretary, Complex Area,
Near Zilla Parishad, Gadchiroli.
2. Newajabai Hitkarini Education Society
Through its Secretary Bramhapuri,
District Chandrapur.
3. Head Master,
Newajabai Hitkarini High School,
Bramhapuri, District Chandrapur.

Shri S.D. Khati, Advocate for petitioner
Shri D.B. Patel, AGP for respondent no.1
Shri S.V. Ingole, Advocate for respondent nos.2 and 3

**CORAM : SMT. VASANTI A. NAIK, AND
A.I.S. CHEEMA, JJ.**

DATE : 07.10.2015

ORAL JUDGMENT (PER : SMT. VASANTI A. NAIK, J.)

Rule. Rule made returnable forthwith. Heard finally with the
consent of the learned Counsel for the parties.

By this petition, the petitioner seeks the protection of his services in view of the judgment of the Full Bench in the case of *Arun s/o Vishwanath Sonone...Versus...State of Maharashtra and others* reported in *2015 (1) Mh.L.J. 457*.

The petitioner was appointed in the Department of the respondent nos.2 and 3 as an Assistant Teacher on 17.2.2000, on a post earmarked for the Scheduled Tribes. The petitioner claims to belong to 'Halba Scheduled Tribe' and the caste claim of the petitioner was referred to the Scrutiny Committee for invalidation. The Scrutiny Committee has invalidated the caste claim of the petitioner by the order dated 28.8.2015. 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' and since the petitioner was appointed before the cut off date and still in service the petitioner has sought the protection of his services.

The learned Counsel for the respondent nos.2 and 3 does not dispute that the petitioner was appointed before the cut off date on 17.2.2000 and 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'.

In the circumstances of the case, the services of the petitioner are required to be protected in view of the judgment of the Full

Bench, reported in 2015 (1) Mh.L.J. 457. Hence, the respondent nos.2 and 3 are directed to protect the services of the petitioner on the condition that the petitioner furnishes an undertaking in this Court and to the respondent nos.2 and 3 within a period of four weeks that neither the petitioner nor his progeny would claim the benefits meant for the 'Halba Scheduled Tribe', in future. It is needless to mention that the petitioner would not be entitled to take the promotional benefits on the basis of his caste claim.

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

JUDGE

JUDGE

Wadkar