
(2013) 08 BOM CK 0074
In the Bombay High Court
Case No : Writ Petition No. 3942 of 2013

Subhash

APPELLANT

Vs

The Joint Secretary and The Scheduled Tribe Caste Certificate
Scrutiny Committee

RESPONDENT

Date of Decision : 19-08-2013

Acts Referred:

Citation : (2013) 08 BOM CK 0074

Hon'ble Judges : Z.A. Haq, J;Anoop V. Mohta, J

Bench : Division Bench

Advocate : Nitin Jachak, for the Appellant; Sonak, AGP, for Respondent No. 1,
Mr. Suryawanshi h/f and Mr. N.W. Sambre, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Anoop V. Mohta, J.—Rule. Rule returnable forthwith. Heard finally with the consent of the parties. Petitioner has been in service with respondent no. 1 since 8.7.1996 based upon caste certificate "Halba-Scheduled Tribe". Caste claim of petitioner is still pending with respondent no. 2-committee, as the same was forwarded for verification in the year 2005.

2. The petitioner by representation dated 1.11.2012 submitted to respondent no. 1 sought to protect his services in view of supreme court judgments, including Kavita Solunke Vs. State of Maharashtra and Others, with a clear statement that he will not claim any benefit of Scheduled Tribe category. However, till this date there is no communication or reply or order passed by respondent no. 2-committee.

3. Learned counsel appearing for the petitioner therefore prayed this Court to pass order of protection as granted to other similarly situated persons on the ground of equality/parity in view of judgment of this Court (Coram: Anoop V. Mohta & Z.A. Haq, JJ.), in the case of Ku. Vijaya Deorao Nandanwar v. Chief Officer, Municipal Council, Wardha, in W. P. No. 5530/12 & ors. dated 10.7.2013,

on the same line. There is no urgency to pass interim order of protection for want of any threat. Petitioner has been in service, as noted above. However, we are inclined to observe that respondent no. 1, in view of the specific judgments of Supreme Court as well as of this Court, apart from Government Circulars issued from time to time, must consider and decide said representation to avoid further litigation and apprehension in the mind of the similarly situated employees who are governed and entitled to get protection in view of those judgments.

4. We are inclined to observe that early decision by respondents in such a matter is to avoid apprehension of termination of service and all similarly related threats, apart from avoidance of litigation because of inaction on the part of department. We are, therefore, inclined to dispose of this petition with a direction to the respondents to consider/decide the representation of the petitioner within eight weeks and pass appropriate order accordingly. Petition is accordingly disposed of with liberty. All the contentions are kept open. No costs.