

Sanjay Vs. State of Maharashtra and ors.

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Court : Mumbai

Decided On : Mar-29-2005

Reported in : [2005(105)FLR986]

Judge : A.P. Deshpande and; B.R. Gavai, JJ.

Appeal No. : Writ Petition No. 4026 of 2001

Appellant : Sanjay

Respondent : State of Maharashtra and ors.

Advocate for Def. : A.S. Kilor, Adv. for Respondent No. 1,; S.W. Deshpande, Adv. for Respondent No. 2 and; S.A. Radke, Adv. Respondent Nos. 3 and 4

Advocate for Pet/Ap. : S.R. Narnaware, Adv.

Judgement :

B.R. Gavai, J.

1. Heard the learned Counsel appearing for the respective parties.

The petitioner was appointed on 31.8.2000 as teacher in the Primary School managed by respondent No. 1 Zilla Parishad. The petitioner was appointed on the seat reserved for scheduled tribe on the basis of claim of the petitioner belonging to Halba caste. The case of the petitioner was referred by the Education Officer,

Zilla Parishad for verification of the caste claim to respondent No. 2. Respondent No. 2 vide order dated 21st May, 2001 rejected the caste claim of the petitioner. The service; of the petitioner consequently came to be terminated on 5.11.2001.

2. Though the petitioner has initially challenged the validity of the order of the Scrutiny Committee, the petitioner has restricted his claim during the course of hearing, only for protection of his services on the basis of the judgment of the Apex Court in the case of State of Maharashtra v. Milind Katware 2001 (1) Mh.L.J. 1.

3. The petitioner has given an undertaking in the petition that hereinafter the petitioner will not claim any of the benefits as are available to the members of the scheduled tribe, in case his services are protected.

4. The Apex Court in the case of Milind Katware (cited supra) has protected all such appointments and admissions, which has become final till the date of the judgment delivered by the Apex Court on 28th November, 2000.

5. In that view of the matter, we find that the petitioner is also entitled for the protection of his services. The learned Counsel appearing for the respondents No. 3 and I has fairly submitted that the post of Primary Teacher is kept vacant in respondent No. 3 Zilla Parishad School. Hence, we dispose of the petition by passing the following order:

ORDER

The order passed by respondent No. 2 Scheduled Tribes Caste Certificates Scrutiny committee dated 21st May, 2001 invalidating the caste claim of the petitioner is upheld. The order dated 21st May, 2001 terminating the services of the petitioner is quashed and set aside. The respondent Nos. 3 and 4 are directed to reinstate the petitioner on the post of Primary Teacher.

It is made clear that since the petitioner has not actually worked from the date of termination he will not be entitled to back wages. However, he will be entitled to continuity of his service. It is further made clear that the petitioner will not claim any of the benefits as are available to the members of the scheduled tribe.

There shall be no order as to costs.

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