

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 01 OF 2016

DISTRICT : - NANDED.

Kailas S/o Vasantrao Shrote
Age 45 years, Occu. Service, as
Awwal Karkoon, R/o C/o Tahsil
Office Hadgaon Tq. Hadgaon,
District Nanded.

.. APPLICANT.

V E R S U S

1. The Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.

2. The Divisional Commissioner (Revenue)
Aurangabad, District Aurangabad.

3. The District Collector,
Nanded.

.. RESPONDENTS

APPEARANCE : Shri V.B. Wagh – learned Advocate
for the Applicant.

: Shri I.S. Thorat – learned Presenting
Officer for the respondents.

CORAM : HON'BLE SHRI RAJIV AGARWAR,
VICE CHAIRMAN (A).

AND

: HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)

DATE : 21ST OCTOBER, 2016.

ORDER**[Per : Hon'ble Shri Rajiv Agarwal, V.C. (A)]**

1. Heard Shri V.B. Wagh – learned Advocate for the Applicant and Shri I.S. Thorat – learned Presenting Officer (P.O.) for the respondents.
2. The Applicant is seeking promotion to the post of Naib-Tahsildar from Scheduled Tribe (S.T. Category) on the basis of the minutes of the Departmental Promotion Committee held on 17.1.2015 by the Respondent No. 2.
3. Learned Advocate for the Applicant argued that the Applicant is presently working as Awwal Karkoon in Tahsil Office, Hadgaon, District Nanded. The Applicant was appointed to the post of Clerk-cum-Typist (Jr. Clerk) on 21.12.1990 and promoted as Awwal Karkoon in the year 2006 from Open Category. The Applicant has not yet been posted as Naib-Tahsildar on promotion, though he has been found fit by D.P.C. He has been asked to produce Caste Validity Certificate of S.T. Category. Learned Advocate for the Applicant argued that the caste claim of

the Applicant has been invalidated by the Caste Scrutiny Committee by order dated 1.8.2014. The Applicant filed a Writ Petition No. 1334/2015 before the Hon'ble Bombay High Court Bench at Aurangabad. Hon'ble High Court by order dated 4.2.2015 directed the Scrutiny Committee to hear the matter afresh. The Scrutiny Committee has, however, not yet decided the matter. Learned Advocate for the Applicant argued that the Applicant deserved to get promotion as Naib-Tahsildar pending verification of his Caste claim by the Scrutiny Committee. He cited judgment of this Tribunal dated 14.7.2015 in O.A. No. 723/2013.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant claims that he is eligible for promotion as Naib Tahsildar. However, the Applicant was appointed in Government service on the basis of his Scheduled Tribe (S.T.) Certificate. In case, his caste claim is rejected by Scrutiny Committee, his seniority will have to be refixed in the cadre of Awwal Karkoon. The Scrutiny Committee has found his Caste

Certificate as invalid by order dated 1.8.2014. No doubt that this order has been quashed by Hon'ble High Court by order dated 4.2.2015 in W.P. No. 1334/2015 and the Committee is directed to hear the Applicant before deciding the matter. However, as the matter is before Caste Scrutiny Committee, the Applicant should wait for its decision. Learned Presenting Officer (P.O.) argued that judgment of this Tribunal dated 14.7.2015 in O.A. No. 723/2013 is not applicable in this case as the facts are quite different.

5. We find that the Applicant has not yet filed his Caste Validity Certificate in respect of his S.T. Certificate. As per the Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, notified on 18.10.2001, promotion cannot be made without production of a Caste Validity Certificate under Section 6 (2) of the said Act. The Applicant, prima-facie, is not eligible to be promoted as

Naib Tahsildar, unless he produces Caste Validity Certificate. In his case, Scrutiny Committee has already invalidated his S.T. certificate. Though it is a fact that order of Scrutiny Committee is quashed by Hon'ble High Court, on the ground of violation of principles of natural justice, it is expected that decision would be available sooner than later. In the meanwhile, we are disinclined to grant any relief to the Applicant in the facts and circumstances of the case. The facts, in O.A. No. 723/2013 were entirely different and judgment in that O.A. will have no application here.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

O.A.NO.01-2016(hdd)-2016(DB)