

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION STAMP NO 711/2015 WITH
O.A NO 744 & 423/2015 WITH M.A Nos 77 &
219/2016**

(1) **ORIGINAL APPLICATION ST. NO. 711 OF 2015**

DIST : JALGAON

GirishVasantraoBaviskar)
Age: 40 Years, Occu: Service)
Working Junior Clerk,)
At District Treasury Office,)
Dist. Jalgaon.)
R/o: Plot No. 57, Draupadi Nagar,)
Near Prem Nagar, Jalgaon.) **APPLICANT**

Versus

1. The State of Maharashtra)
(Through its Secretary,)
The Department of Finance,)
Mantralaya, Mumbai.)
2. The Director,)
Accounts & Treasury,)
15 & 16, Free Press, Journal Marg,)
Opposite.Mantralaya, Mumbai.)

3. The Joint-Director,)
Accounts and Treasury,)
LekhaKoshBhavan,)
Collector Compound, Near Bus Stand,)
Nashik - 422 101)

4. The District Treasury Officer,)
Collector Compound,)
Mahabal Road,)
Jalgaon - 425001.)

) **RESPONDENTS**

(The respondents to be served through
the Chief Presenting Officer
Maharashtra Administrative Tribunal
Mumbai Bench at Aurangabad)

WITH

(2) **ORIGINAL APPLICATION NO. 774/2015**

DISTRICT- HINGOLI

Mali Ramesh Gangaram)
Age: 49 Years, Occu: Service,)
Junior Clerk Cum Typist,)
Office of the Treasury Officer,)
Hingoli.)

) **APPLICANTS**

Versus

1. The State of Maharashtra)
Through Secretary,)
Accounts and Treasury Department,)
Mantralaya, Mumbai - 32.)

2. The Joint Director,)
Accounts and Treasuries,)
Aurangabad.)
3. The Treasury Officer,)
Hingoli.)
4. Mr. Santosh Vasantrao Cholwar,)
Sr. Accountant,)
Collector Office, Nanded.) **RESPONDENTS**

WITH

(3) ORIGINAL APPLICATION NO. 423/2015 WITH
MISC. APPLICATION NO.219/2016 &MISC.
APPLICATION NO. 77/2016

DISTRICT:JALGAON.

Dinesh Suresh Thakur,)
Age: 37 Years, Occu: Service,)
R/o: Ishwar Colony, Plot No. 4,)
In front of Datta Mandir,)
Jalgaon - 425 001.) **APPLICANT**

Versus

1. The State of Maharashtra)
(Through its Secretary)
Revenue and Forest Department,)
Mantralaya, Mumbai.)

2. The Dy. Director of Land Record,)
Near Old CBS, Sharanpur Road,)
Nashik.)

3. The Superintendent of Land)
Records, Near Old CBS,)
Sharanpur Road, Nashik Region,)
Nashik. 4. City Survey Officer,)
Malegaon Camp, Malegaon,)
Dist. Nashik.)

)RESPONDENTS

Shri A.S Bayas, learned advocate for the Applicant in O.A Stamp No. 711/2015.

Shri S.D Dhongade, learned advocate for the Applicant in O.A no 744/2015, O.A 423/2015 with M.A nos 219/2016 and M.A no 77/2016

Shri I.S Thorat, learned Presenting Officer for the Respondents in O.A no 711/2015, Shri N.U Yadav, learned Presenting Officer for the Respondents in O.A no 744/2015 and Shri D.R Patil, learned Presenting Officer for the Respondents in O.A no 423/2015.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri J.D Kulkarni (Member) (J)

DATE : 13.12.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.S Bayas, learned advocate for the Applicant in O.A Stamp No. 711/2015, Shri S.D Dhongade, learned advocate for the Applicant in O.A no 744/2015, O.A 423/2015 with M.A nos 219/2016 and M.A no 77/2016, Shri I.S Thorat, learned Presenting Officer for the Respondents in O.A no 711/2015, Shri N.U Yadav, learned Presenting Officer for the Respondents in O.A no 744/2015 and Shri D.R Patil, learned Presenting Officer for the Respondents in O.A no 423/2015.

2. These Original Applications and Misc Applications were heard together on 21.9.2016 and are being disposed of by a common order as the issues to be decided are similar.

3. In these Original Applications, the Applicants are seeking promotions, regular as well as Time Bound Promotion which have been denied for want of availability of Caste Validity Certificates.

In O.A no 711/2015, the case of the Applicant was referred to the Caste Verification Committee on 17.5.2005. However, no decision has been given by the Committee as yet.

In O.A no 744/2015, the papers for validating Caste claim of the Applicants were forwarded to the Scrutiny Committee on 29.7.2013.

In O.A no 423/2015, Caste claim of the Applicant has been forwarded to the Scrutiny Committee on 4.7.2005.

4. The Applicants are relying on the judgment of Hon'ble High Court in Writ Petition no **3136/2011 (S.C SAINDANE Vs. STATE OF MAHARASHTRA)** dated 25.8.2011 and judgment of this Tribunal dated 29.9.2011 in O.A no 640/2009, order dated 31.3.2015 in O.A no 767/2013 etc. The Applicants claim in short is that the matter regarding validity of their Caste Certificates is pending before the concerned Scrutiny Committees and the Applicants should not be denied their due promotions.

5. Learned Presenting Officers on the other hand have argued that under Section 6 of the Maharashtra Scheduled Castes, 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 (Act of 2000 hereinafter), the responsibility of producing Caste Validity Certificate is upon the concerned Government servants. Hon'ble Bombay High Court in

Full Bench Judgment in **ARUN SONONE Vs. STATE OF MAHARASHTRA : 2015 (1) Mh.L.J 457** has held that after the Act of 2000 came into force, no promotion could be given unless Caste Validity Certificate is produced by the concerned Government servant.

6. This issue has been examined at some considerable length by the Principal Bench of this Tribunal in O.A no 356 of 2016 by judgment dated 25.10.2016. It is observed that Hon'ble Supreme Court in **L. CHANDRAKUMAR Vs. UNION OF INDIA, (1997) 3 SCC 261**, has held that the function of this Tribunal is supplemental to the Hon'ble High Court. The concerned Scrutiny Committees are not parties to these O.As. However, this Tribunal can give directions to the Scrutiny Committees on the lines similar to what was given by Hon'ble High Court (Aurangabad Bench) in **SHRIKANT C. SAINDANE Vs. STATE OF MAHARASHTRA in W.P 2136/2011** by judgment dated 25.8.2011.

7. We accordingly direct the Respondents to consider the cases of the Applicants for Time Bound Promotion and for the normal promotion of the Applicants within a period of three months, subject to the production of Caste Validity Certificates. It is also made clear that if the concerned Caste Scrutiny Committee were to find against the Applicants, the Respondents shall be free to take all administrative penal and quasi

penal action against the Applicants including recovery of amounts, if any, paid to them by virtue of Time Bound Promotion/normal Promotion, which might have been given subject to production of Caste Validity Certificates. The concerned Caste Scrutiny Committees are directed to decide the claims of the Applicants within a period of six months from the date of this order. The Registrar of this Tribunal is directed to forward a copy of this judgment to each of the Caste Scrutiny Committees. These Original Applications are allowed in these terms with no order as to costs.

(J.D. Kulkarni)
Member (J)

(Rajiv Agarwal)
Vice-Chairman

Place : Aurangabad
Date : 00.11.2016
Dictation taken by : A.K. Nair.