

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 71/2020(D.B.)**

Wasudeo Dhonduji Nandankar,  
Aged about 54 years, Occu: service,  
R/o Tanda Peth, Lendi Talav,  
Near Dr. Deogade Hospital Nagpur,  
Tq. and Distt. Nagpur.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through its Principal Secretary,  
General Administration Department,  
Mantralaya, Mumbai- 32.
2. The Divisional Joint Registrar,  
Co-Operative Societies (Audit),  
Nagpur Division Nagpur.

**Respondents.**

---

Shri A.S.Deshpande, Ld. Counsel for the applicant.  
Shri M.I.Khan, Ld. P.O. for the respondents.

---

**Coram:-**Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &  
Hon'ble Shri Nitin Gadre, Member (A).

**Dated:-** 11<sup>th</sup> October, 2024.

---

**JUDGMENT**

Heard Shri A.S.Deshpande, learned counsel for the  
applicant and Shri M.I.Khan, learned P.O. for the Respondents.

2. The case of the applicant in short is as under.

The applicant was appointed as per appointment order dated 20.11.1993, as a nominee of the Freedom Fighter. The respondents have issued impugned order dated 27.12.2019 on the ground that applicant belongs to Halaba. Caste Validity Scrutiny Committee invalidated the claim of applicant of Scheduled Tribe (S.T.). Therefore, respondent issued order dated 27.12.2019 to keep the applicant on supernumerary post for 11 months. Therefore, the applicant has approached to this Tribunal for the following reliefs-

- i. *allow the instant original application with costs;*
- ii. *be pleased to hold and declare that the provisions of the Government Resolution dated 21.12.2019 are not made applicable to the case of the present applicant;*
- iii. *be pleased to quash and set aside the impugned order dated 27.12.2019 passed by the respondent no.2-The Divisional Joint Registrar Co-Operative Societies (Audit) Nagpur Division Nagpur (Annexure-).*
- iv. *grant any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the instant application.*

***INTERIM RELIEF TO BE SOUGHT:***

- a. *during pendency of the present application be pleased further be pleased to stay to the effect, operation and implementation of the impugned order dated 27.12.2019 passed by the respondent no.2-The Divisional Joint Registrar Co-Operative Societies (Audit) Nagpur Division Nagpur (Annexure-) till the disposal of instant application;*

b. be pleased to grant ad-interim relief in term of prayer clause (a).

3. It is the contention of the applicant that he was appointed as nominee of Freedom Fighter. The applicant was not appointed in a reserved category (S.T.). He was promoted in Open category. Therefore, there was necessity for the applicant to produce Caste Validity Certificate. Hence, impugned order dated 27.12.2019 is liable to be quashed and set aside.

4. The respondent no.2 has filed reply. It is submitted that the applicant was appointed in a reserved category (S.T.). Therefore, it was necessary for the applicant to produce Caste Validity Certificate. The Caste Scrutiny Committee invalidated the claim of the applicant of Scheduled Tribe and therefore the order is issued by the respondents to keep the applicant on supernumerary post for 11 months.

5. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Bombay High Court in the case of **Suryakant C. Koturkar Vs. State of Maharashtra & Ano., 2023 (3) Mh.L.J. 653** and the Judgment of this Tribunal in O.A.No.112/2024 and 113/2024 decided on 13.09.2024 and 06.08.2024 respectively. As per Judgment of the Hon'ble High Court in case of Surykant, there was / is no necessity for the employee / candidate who was appointed as

nominee of Freedom Fighter, to produce Caste Validity Certificate. It is held by the Hon'ble Bombay High Court, Bench at Aurangabad in the case of **Suryakant C. Koturkar Vs. State of Maharashtra & Ano., 2023 (3) Mh.L.J., 653** that keeping the employees / candidates on supernumerary post because of invalidation of caste claim of Scheduled Tribe is not legal and proper. This Tribunal has also held in the above cited O.As. that the applicants/employees who were appointed as nominee of Freedom Fighter need not to produce Caste Validity Certificate.

6. In the present O.A., the applicant was appointed as nominee of Freedom Fighter. The applicant was promoted in Open category on the post of Sub-Auditor. The caste claim of the applicant of Scheduled Tribe (S.T.) is invalidated by Caste Scrutiny Committee. There is no necessity for the applicant to produce Caste Validity Certificate because he was not appointed in a reserved category of Scheduled Tribe (S.T.). The applicant was appointed as nominee of Freedom Fighter and therefore in view of the Judgment cited above the impugned order dated 27.12.2019 is not legal and proper. Hence, we proceed to pass the following order-

**ORDER**

1. The O.A. is allowed.

2. The provisions of G.R. dated 21.12.2019 by which the applicant is kept on supernumerary post is not applicable to the applicant.
3. The impugned order dated 27.12.2019 issued by the respondent no.2 is hereby quashed and set aside.
4. The respondents are directed to grant consequential benefits to the applicant.
5. No order as to costs.

**(Nitin Gadre)**  
**Member(A)**

**(Justice M.G.Giratkar)**  
**Vice Chairman**

Dated – 11/10/2024.  
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.  
Court Name : Court of Hon'ble Vice Chairman  
& Hon'ble Member (A).  
Judgment signed on : 11/10/2024.  
and pronounced on

\*\*\*