

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12905/2013

(From the judgement and order dated 06/12/2012 in WP No.5180/2012 of The HIGH COURT OF BOMBAY AT NAGPUR)

EXE. E.EHV.C.DIV.NO.1, MSETCL,NAGPUR&ANR Petitioner(s)

VERSUS

JYOTSNA BHONDELAL SHRIWAS & ORS. Respondent(s)
(With prayer for interim relief and office report)

Date: 04/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr. M.Y. Deshmukh,Adv.
Mr. Yatin M. Jagtap, Adv.

For Respondent(s) Mr.Shankar Chillarge, Addl.Adv.Gen.(SOM)
Mr. A.P. Mayee, Adv.
Ms. Asha Gopalan Nair,Adv.

Ms. Anagha S.Desai ,Adv.
Mr. Satyajit A. Desai, Adv.
Mr. Swetab Kumar, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard Mr. Deshmukh learned counsel appearing on behalf of the petitioner in support of this petition and Ms. Angha Desai learned counsel appearing for respondents.

(1) This special leave petition seeks to challenge the judgment and order dated 6th December, 2012 of the High Court

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of Bombay at Nagpur Bench in Writ Petition No.5180 of 2012 which allowed the writ petition filed by the respondent No.1 herein. The respondent No.1 is an employee working as Upper Division Clerk in the petitioner's Construction Division since 3rd October, 1997. Much later after her joining, her caste certificate as belonging to a Scheduled Tribe came to scrutinized and came to be cancelled. This would have resulted into loss of job. She filed a writ petition to the High Court of Bombay at Nagpur Bench which was allowed. Therefore, this special leave petition has been filed.

(3) Mr. Dekshmukh counsel for the petitioner submits that the Scrutiny Committee's report having gone against the petitioner, she cannot claim to be belonging to the Thakur Community, but merely because she has put in long years of service she should not be protected He relied upon a judgment of this Court in the case of R. Vishwanath Pillai vs. State of Kerala & Ors. reported in 2004 (2) SCC 105 wherein this Court declined to consider the aspect of the long years of service that the petitioner had

put in. It is however, relevant to note that in that case the parents of the petitioner belonged to 'Nair Community' whereas the petitioner had given his caste as "Vettuvvari" which is a Scheduled Caste. In the instant case, the petitioner's father as well as sister both have a caste certificate as belonging to 'Thakur Community'. The present case is also different from the judgment of the case

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of Bank of India & Anr. vs. Avinash D. Mandivikar & Ors. reported in 2005 (7) SCC 690 where the documents were manipulated to make a false claim.

(4) On the other hand, we have a judgment of another bench of this Court in the case of Dattu S/o Namdev Thakur vs. State of Maharashtra reported in 2012 (1) SCC 549 wherein this Court had passed an order that in view of the cancellation of the caste certificate, the petitioner will not be entitled to take any future advantages of reservation for future purposes, the educational qualifications attained by the petitioner were not to be disturbed.

(5) We record the statement of Ms. Desai learned counsel appearing for the respondent that the respondent will not claim any benefit as belonging to the 'Thakur' Scheduled Tribe in view of the cancellation of her claim as belonging to that particular community. The employment of the respondent in the petitioner organization will however not be disturbed.

The special leave petition stands disposed of accordingly.

[Usha Bhardwaj]
A.R.-cum-P.S.

[Sneh Lata Sharma]
Court Master