



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

CONTEMPT PETITION NO.702 OF 2022
IN
WRIT PETITION NO.10271 OF 2021

Shubham S/o Ramesh Ghuge
Age : 25 Years, Occu.: Student,
R/o. At post Borpadi, Taluka &
District Beed

... Petitioner

Versus

1. Shri Manukumar Srivastava, I.A.S.
The Chief Secretary,
The State of Maharashtra, Mantralaya,
Madam Cama Road, Mumai, District Mumbai,
Maharashtra
2. Shri Baldev Singh, I.A.S.
The Secretary,
Industries, Energy & Labour Department,
Mantralaya, Madam Cama Road, Mumbai,
District Mumbai, Maharashtra
3. Shri Sanjay Khandare, I.A.S.
Managing Director,
Maharashtra Electricity Generation
Company Ltd., Mumbai

... Respondents

.....

Mr. Sayyad Tauseef Yaseen, Advocate for the Petitioner
Mr. S. J. Salgare, AGP for Respondents No.1 & 2
Shri. V. D. Hon, Senior Counsel h/f. Shri. Rahul Tambe, Advocate for
Respondent No. 3

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CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

RESERVED ON : 28.01.2025
PRONOUNCED ON : 12.02.2025

ORDER [PER NEERAJ P. DHOTE, J.] :

. Heard learned Advocate for the Petitioner, learned AGP for Respondents No.1 and 2 and learned Advocate for Respondent No.3.

2. The Petitioner approached this Court in Writ Petition No. 10271 of 2021 with the following prayers :-

“A. This Writ Petition may kindly be allowed.

B. By issuing a Writ in the nature of Mandamus, or any other Writ, the Respondents be directed to convert the vacant S.E.B.C. Seats to Open Category and further complete the Recruitment process as per the Selection List / Wait List.

C. By issuing a Writ in the nature of Mandamus, or any other Writ the Respondents may kindly be directed to convert the vacant S.E.B.C Seats to Open Category and further complete the Recruitment process as per the Selection List / Wait list within a stipulated period.

D. Any other suitable and equitable relief may kindly be granted in favour of the Petitioner in the interest of justice.”

3. This Court disposed of the said Writ Petition by order dated 22.04.2022, which reads as under : -

“1. By this petition, the petitioner has put forth prayer clauses ‘B’ and ‘C’ as under :-

B. By issuing a Writ in the nature of Mandamus, or any other Writ, the Respondents be directed to convert the vacant S.E.B.C. Seats to Open Category and further complete the Recruitment process as per the Selection List/Wait list.

C. By issuing a Writ in the nature of mandamus, or any other Writ the Respondents may kindly be directed to convert the vacant S.E.B.C. Seats to Open Category and further complete the Recruitment

process as per the Selection List/Wait list within a stipulated period.

2. The petitioner has applied pursuant to the recruitment process initiated vide advertisement No. 04/2019 for 746 posts in the category of "Pragatkushal" (trainee). He belongs to NT category. He is in the wait list. Pursuant to the decision of the Honourable Apex Court, disapproving the reservation for a particular category termed as "Socially and Economically Backward Class" (SEBC), about 98 posts, which were reserved for the SEBC category, will have to be released.

3. The learned counsel for the petitioner draws our attention to the Government Resolution dated 5th July, 2021, issued by the General Administration Department of the Government of Maharashtra, specifically to the following portion :-

अ. क्र.	भरती प्रक्रिया स्थगित असलेला टप्पा	भरती प्रक्रिया राबविण्याबाबतची कार्यवाही
1	स्पर्धा परीक्षेमध्ये पद भरतीकरीता, सामाजिक व शैक्षणिकदृष्ट्या मागास प्रवर्गाच्या आरक्षणाच्या आधारे पूर्व व मुख्य परीक्षेचा निकाल जाहीर होउन मुलाखत प्रक्रिया पूर्ण झाली आहे. तथापि, अंतिम निकाल जाहीर करण्यात आलेला नाही.	अशा प्रकरणी एसईबीसी वर्गाकरीता राखीव असलेली पदे अराखीव पदामध्ये रुपांतरीत करून मुख्य परीक्षेचा निकाल सुधारित करून केवळ नव्याने पात्र ठरणाऱ्या उमेदवारांच्या मुलाखती घ्याव्यात. सुधारीत निकालानुसार अपात्र ठरणाऱ्या उमेदवारांना निकाल प्रक्रियेतून वगळण्यात यावे. तत्पूर्वी एसईबीसी वर्गातून अर्ज केलेल्या उमेदवारांकडून विकल्प घेऊन, त्यांच्या विकल्पानुसार ईडब्ल्यूएस अथवा अराखीव प्रवर्गातून नियुक्तीकरीता शिफारस करावी.

4. In the light of above, he submits that the third respondent – The Maharashtra State Electricity Generation Company Limited has conveyed to the Joint Secretary (Energy –2), Industries, Energy and Labour Department, State of Maharashtra, vide communication bearing No. 7682 dated 9th August, 2021, to guide respondent No. 3 as regards the 98 posts available which were earmarked for SEBC and which now will have to be considered for recruitment. The learned counsel further submits that the General Administration Department will have to inform respondent No. 3 that the said 98 seats would now be available for the open category and since the selection process is not yet complete, those candidates who have not been in the select list as per the earlier existing terms of the advertisement, be granted an option of applying from the open category, in view of the Government Resolution dated 05th July, 2021.

5. In view of the above, this petition is disposed off with a direction to respondent No. 2 to respond to the communication dated 9th August, 2021, placed before us by the learned advocate for respondent No.3, which is marked as 'X-1' for identification and, guide respondent No. 3 in the light of the Government Resolution dated 5th July, 2021. We expect the response of respondent No.2 to respondent No.3, as expeditiously as possible and preferably, on or before 31st May, 2022. Needless to state, thereafter, respondent No. 3 would proceed in accordance with the advice of respondent No. 2. It goes without saying that respondent No. 2 would complete the selection process as expeditiously as possible and preferably, on or before 30th August, 2022."

4. The Petitioner filed this Contempt Petition with the contention that there is willful disobedience of the said directions of this Court and prayed for initiation of proceedings against the Respondents under the Contempt of Courts Act, 1971. Respondents No.1 and 2 filed their Affidavit-in-reply dated 27.12.2022 and Respondent No.3 filed its reply Affidavit dated 13.01.2023. The Petitioner filed Rejoinder dated 13.06.2024. Respondent No.3 filed Affidavit in Sur-Rejoinder to the Rejoinder dated 09.09.2024.

5. By the above referred order of this Court, Respondent No.2 was to respond to the communication dated 09.08.2021 and guide Respondent No.3 in the light of the Government Resolution dated 05.07.2021 within time set out in the said order and Respondent No.3 was directed to proceed in accordance with the advice of Respondent No.2 and complete the selection process within the stipulated time. What is seen from the Affidavit-in-reply / Affidavit in Sur-Rejoinder of

the Respondents is that, Respondent No.2 had already responded to the communication dated 09.08.2021 sent by Respondent No.3 before passing of the said directions. What is seen from the Affidavit-in-reply of the Respondents that, the said fact was not brought to the notice of this Court and the above referred order disposing the Petition was passed. The reply further shows that Respondent No.3, in pursuance to the above referred directions of this Court, sought guidance from Respondents No.1 and 2 by communication dated 03.06.2022 and Respondents No.1 and 2 by communication dated 01.09.2022 directed Respondent No.3 to complete the recruitment process in accordance with the Government Resolution dated 05.07.2021. Respondent No.3 accordingly allowed the candidates from S.E.B.C. category to opt from E.W.S. category or Open competition. The candidates from S.E.B.C. category have opted from E.W.S. category and the recruitment process was completed and appointment letters were issued to the selected candidates. In the meanwhile, Bill No.27/2022 was passed for creation of Supernumerary posts in the cadre of Civil Services, under which 85 (Eighty Five) Supernumerary posts of 'Technician-III' were directed to be created on the establishment of Respondent No.3 and to appoint eligible candidates selected *vide* Advertisement No.4/2019 and the Government Resolution dated 21.09.2022 came to be issued. Pursuant to that, Respondent No.3 issued Office Order for creation of 85 (Eighty Five) Supernumerary posts of 'Technician-III' and issued appointment

orders to the remaining candidates belonging to the S.E.B.C. and E.W.S. category, who were selected *vide* earlier Advertisement No.4/2019, but could not be appointed due to publication of revised E.W.S. select list. Respondent No.3 once again sought guidance of Respondent No.1 *vide* communication dated 07.10.2022, to which Respondent No.1 responded *vide* communication dated 22.12.2022 pursuant to which the claim of the Petitioner cannot sustain as the Respondent proceeded to recruit the candidates as per the Government Resolution dated 21.09.2022.

6. It is clear from the above that, Respondent No.3 acted pursuance to the advice and Government Resolutions issued by Respondent No.1 in the matters of recruitment to the said posts. It is seen from the Affidavit-in-reply of Respondent No.3 that, Civil Application No.13439 of 2022 was filed in the aforesaid disposed of Petition to extend the time set out in the aforesaid order. In the light of the above, we see no willful disobedience by the Respondents of the directions passed by this Court in the above Writ Petition. Hence, the Contempt Petition stands disposed of.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

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