

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 585 OF 2015
WITH CA/6898/2015 IN WP/585/2015

VAISHALI BARKU SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Savale Amit S and Hemakshi Jad
AGP for Respondents 1 and 3: Mr. K.M. Suryawanshi
Advocate for Respondent No.2 : Mr. P.S. Patil

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 23rd JULY, 2015

P.C. :-

1. Mr. Savale, the learned counsel for the petitioner submits that pursuant to the advertisement, the petitioner had applied for the post of Gramsevak, which was notified for scheduled area of Nandurbar district from local Scheduled tribe candidates (female category). The learned counsel submits that the petitioner's application was complete in all respects. The petitioner appeared for written examination and secured 134 marks out of 200. As per the terms and conditions laid down in the advertisement, the petitioner had submitted all documents. Final selection list was to be prepared after verifying the original documents. The petitioner had submitted original documents. The caste certificate could not be submitted as the proposal seeking validity certificate to the said Tribe certificate was referred to the committee. The petitioner

submitted acknowledgement of receipt of the said proposal. However, name of the petitioner was not included in the final selection list only on the ground that caste certificate is not annexed. According to the learned counsel, validity certificate is not necessary and In absence of validity certificate if validation proceeding is pending, provisional appointment can be given subject to the decision of the committee. According to the learned counsel, the Government Resolution dated 12.12.2011 also permits the said recourse. Learned counsel submits that the petitioner is entitled to be appointed for the post of Gramsevak on merits, as the petitioner has secured 134 marks out of 200. Learned counsel further submits that even the proposal is submitted for validation to the scheduled Tribe Certificate verification committee constituted for scheduled tribe category candidate and the committee has accepted the said proposal. The learned counsel further submits that the petitioner is resident of scheduled area i.e. Kamaravad, Tq. Shahada. The domicile certificate is also issued of the said area. It is erroneous on the part of the respondents to state that the petitioner does not belong to scheduled area. The certificate relied upon by the respondent is of the year 1994 when the petitioner was not married and was residing with her parents. Now the petitioner is married. According to the learned counsel the case of the petitioner deserves to be considered.

2. Mr. Patil, the learned counsel submits that the petitioner has

submitted proposal seeking validity in respect of her tribe certificate obtained in the year 1994. However, in the year 2015 the petitioner has obtained another tribe certificate which is illegal. The learned counsel further submits that the documents on record equivocally go to establish that the petitioner is not of village Kamaravad i.e. scheduled local area. The certificate is of village Thalner, which is in Shirpur Taluka. The learned counsel submits that the petitioner was required to submit the attested copy of the tribe certificate so as to know as to which caste the petitioner belongs. The acknowledgment of the proposal also nowhere suggests the caste to which the petitioner belongs.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. There cannot be any dispute with the proposition that if the validity proceedings are pending and the candidate is selected, in such case, subject to the decision of the committee for validation proceedings, the provisional appointment can be given. However, in the present case, the defect was of non submission of the caste certificate itself, showing as to which caste the petitioner belongs. The petitioner was seeking appointment from a particular reserved class, as such it was necessary for the authorities to verify as to which reserved category the petitioner belongs. The same was lacking. Even at the time of verification the same was not made clear to the authority. The selection

process is complete. Even the final selection list has been published. In the light of that, the case of the petitioner cannot be considered.

5. At the same time, we are not ready to accept the contention of the respondents with regard to the residence of the petitioner. The petitioner has produced the residential domicile certificate which would carry more probative value.

6. Considering the above, writ petition is disposed of. No costs.

7. At this stage, Mr. Savale, the learned counsel seeks continuation of interim relief. The said request is opposed by the learned counsel for the respondents and the intervenor. Considering the fact that interim relief was in force, the same is extended for a period of two weeks.

8. Needless to state that on lapse of two weeks, the said interim relief would come to an end.

9. In view of disposal of writ petition, civil application also stands disposed of.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

rlj/