

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

WRIT PETITION NO. 1136 OF 2010

Kaveri Vithalrao Chavan .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri P. G. Gunale, Advocate for the Petitioner

Shri G. K. Thigle, A. G. P. for the Respondent State

Shri K. C. Sant and A. S. Pavse, Advocate for the Respondent Nos.
5 and 6

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 07TH APRIL, 2015.

PER COURT :

1) Mr. Gunale the learned counsel for the petitioner submits that petitioner had applied for the post of Clerk as well as Talathi from the 'Project Affected Persons' category. The petitioner belongs to Open Category. There were 31 posts of Clerk advertised and 32 posts for Talathi. In 'PAP' category one post was reserved for Other Backward Class Candidate and two posts were meant for Open candidates. So also for the post of Talathi two posts were meant for 'PAP' and both were from Open category. The learned counsel submits that, respondent Nos. 5 and 6 belong

to reserved category i.e. S. T. There was no post reserved for S. T. category in 'PAP'. As such respondent Nos. 5 and 6 could not have been considered. The learned counsel relied on the Government Resolution dated 21st January, 1980, so also the judgment of this Court in writ petition No. 272 of 2010 dated 15th November, 2010. According to the learned counsel, as respondent Nos. 5 and 6 had applied from S. T. category, they could not have been considered from 'PAP' category. The horizontal reservation is not interchangeable.

2) The learned counsel submits that, the judgment and order passed by this Court in writ petition No. 2739 of 2009 as such needs to be recalled as these aspects have not been considered.

3) Mr. Sant the learned counsel for respondent Nos. 5 and 6 and the learned A. G. P. supports the order.

4) We have considered the submissions canvassed by the learned counsel for the respective parties. It is fact that respondent No. 5 applied from 'Project Affected Persons' Category and respondent No. 6 is from Earthquake Affected Category. They belong to S. T. It is also not disputed that in the selection process respondent Nos. 5 and 6 have secured more marks than

the petitioner that is respondent Nos. 5 and 6 are more meritorious. It is not a case of reservation being interchanged. Respondent Nos. 5 and 6 are not claiming the benefit of reservation of their social status. The arguments of the learned counsel for the petitioner could have been accepted if the said respondents would not have been Project Affected Persons.

5) Moreover, even today the petitioner has become age barred and cannot claim any benefit. In light of the aforesaid facts and circumstances, no case for interference is made out. Writ petition as such is disposed of. No costs.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]

sam/April. 15