

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 2312 OF 2013

DEEPMALA SADASHIV TELEWAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

...

Advocate for Petitioner : Mr. Deshmukh N.E.
APP for Respondent/State : Mr. V.H. Dighe
Advocate for Respondent No.2 : Mr. Malte Uday S.
Advocate for Respondent No.3 : Mr. A.S. Bayas

...

CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: April 23, 2015

...

PER COURT :-

This Petition takes exception to the order dated 23.06.2012 issued by Respondent No.2 – Registrar, Swami Ramanand Tirth Marathwada University Nanded, appointing Respondent No.3 on a seat meant for woman candidate from Special Backward Class and also seeking quashment of clarification dated 12.04.2010, increasing the number of posts and de-reserving the seats for women category candidates. The petitioner further seeks directions to Respondent No.2 to appoint the petitioner as peon w.e.f. 23.06.2012 and grant all

other consequential benefits on the basis of the advertisement dated 31st March, 2010 from Special Backward category.

2. The learned counsel appearing for the petitioner submits that, in the original advertisement, two seats were reserved for Special Backward Class Category, out of two posts, one for woman candidate. However, Respondent – University on 12th April, 2010 issued clarification that, the posts of Junior Clerks were increased from 38 to 46, whereas the posts of peons were increased from 48 to 50 and further the special reservation meant for women candidates was deleted. He further submits that, Respondent No.3 was earlier appointed, however, his services came to be terminated because of invalidation of his tribe claim. Again Respondent No.3 applied from Special Backward Category, which was not permissible, therefore, his appointment deserves to be cancelled and petitioner deserves to be appointed on the post of peon.

3. Respondent No.2 has filed affidavit in reply. It is

stated in the said affidavit in reply that, various applications were called as per advertisement dated 31st March, 2010. In the said advertisement, there is specific note at the end of advertisement that, number of posts advertised may be changed. The last date for submitting the application was 16th April, 2010. Immediately on 1st April, 2010, the Respondent issued corrigendum and the total posts of peons are reduced from 62 to 48 and reservation of posts are also changed. It is submitted that, the action taken by Respondent issuing clarification was within breathing time from issuance of advertisement, and therefore, there is no substance in the contention of the petitioner that, the reservation in respect of women candidates from Special Backward Category ought to have been maintained. It is further stated in the affidavit in reply that, in the advertisement dated 31st March, 2010 itself at the bottom side, a note is given that, there may be change of number of posts. The clause 9(a) of the advertisement also states that, respondent university has reserved its right to change the posts, to fill all the posts or not to fill the posts. It is stated in para 8 that, respondent no.3 secured highest

marks and thus appointed as a peon. Accordingly, respondent no.3 joined the duties.

4. We have considered the submissions advanced by the learned counsel appearing for the petitioner and also the reply filed by Respondent No.2. There is no dispute that, the petitioner did participate in the selection process from Special Backward Class Category for the post of peon and was unsuccessful on merits. First of all, once the petitioner did participate in the selection process, it is not open for the petitioner to challenge the said selection process, and secondly respondent no.3 has secured highest marks, and therefore, rightly appointed from the Special Backward Class Category. The corrigendum issued by the University was immediately on the next day of the date of advertisement, and therefore, it cannot be said that, prejudice was caused to the petitioner. Upon perusal of the footnote in the said advertisement, it is abundantly clear that, University possesses power of alteration of condition in the advertisement and no fault can be attributed whatsoever.

5. In that view of the matter, Petition sans merits,
hence rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

...

SGA/-