

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

WRIT PETITION NO. 3354 OF 2015

Raghunath Kishanrao Rupnar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Hanmant V. Patil, Advocate for the Petitioner.

Shri S. G. Sangle, A.G.P. for Respondent Nos. 1, 3 and 4.

Shri B. S. Deshmukh, Advocate for the Respondent No. 2.

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

DATE : 13TH AUGUST, 2015.

PER COURT :

. Mr. Patil, the learned counsel for the petitioner submits that, the petitioner was selected and was on the waiting list. He was also called for scrutiny of documents. However, he was not considered for appointment on the ground that non creamy layer certificate valid till 31.03.2014 was not submitted. The learned counsel submits that, the petitioner has submitted non creamy layer certificate valid till 31.03.2013. The petitioner had applied pursuant to the advertisement. The last date for filling application was 20.02.2014. According to the learned counsel along with application the non creamy layer certificate valid upto 31.03.2013 was submitted. When the petitioner was asked to

produce the non creamy layer certificate upto 31.03.2014, the petitioner filed an application with the authority, however, at the relevant time there was stay to grant non creamy layer certificate. Subsequently, the petitioner has received non creamy layer certificate valid upto 31st March, 2017 on 28.03.2015. The petitioner has filed this petition in March 2015. The candidature is not considered by the respondent No. 2/corporation. There are still vacancies available.

2. Mr. Deshmukh, the learned counsel for the respondent No. 02 submits that, wait list is valid for a period of one year only. The said period has lapsed on 15.07.2015. As such, now candidature of the petitioner cannot be considered. The learned counsel further submits that, the petitioner was required to produce the non creamy layer certificate valid upto 31.03.2014 on the date of scrutiny of documents. The same was not produced, the petitioner is disqualified. The respondent No. 2 has disqualified the candidature of the petitioner on 15.05.2015.

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

4. The matter was pending in this Court since March 2015. The letter of the Tahsildar is produced before this Court stating that there was stay to issuing non creamy layer certificates. Be

that as it may, the petitioner has produced copy of non creamy layer certificate valid upto 31.03.2017. The validity of the wait list was for one year and the wait list has lapsed on 15.07.2015, when the present petition was pending and during pendency of petition candidature of the petitioner has been disqualified. The petitioner has received non creamy layer certificate dated 28.03.2015 and which is valid upto 31.03.2017.

5. Considering the aforesaid conspectus of the matter, we pass the following order.

6. The respondent No. 2 shall consider the candidature of the petitioner for the post of Assistant Junior that is the post for which the petitioner had applied and shall consider the non creamy layer certificate filed by the petitioner valid upto 31.03.2017, in case the vacancy is available. The candidates already selected shall not be disturbed. The candidature of the petitioner shall not be rejected only on the ground that one year has lapsed from the date of operation of the wait list. The writ petition accordingly is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]