

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

WRIT PETITION NO. 3348 OF 2014

SWATI MAHADU ZINJADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. B.S. Kudale
AGP for Respondents: Mr.D.B.Bhange
Advocate for Respondent 2 : Mr. A.R. Nikam
Advocate for Respondents No.3,4 : Mr. A.V.Patil h/f
Mr. S.B.Pulkundwar

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: June 18, 2015

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PER COURT :-

1. The writ petition is filed on the ground that though the Sports certificate of the petitioner is held invalidated, the petitioner could have been considered from the open category. The petitioner had applied from Scheduled Caste -Sports category Marathi Medium. According to the learned counsel, even if the Sports certificate is held to be invalidated, there is no impediment for the petitioner to be considered from open category. The petitioner could also have been considered from SC category even if the Sports certificate is invalidated. The learned counsel submits that the candidates possessing less marks than the petitioner are included in SC category.

2. Mr. Nikam, the learned counsel for respondent no. 2 submits that the petitioner does not figure in the merit. The last candidate appointed in open category has secured 147 marks whereas the petitioner has secured 133 marks. The Sports certificate of the petitioner has been held invalidated. The petitioner had applied from a particular category and should have been considered from that category only.

3. Mr. Patil, the learned counsel for respondent nos. 3 and 4 alongwith Mr. Pulkundwar submits that the petition is filed seeking directions to consider the petitioner from the open category, however, in the open category the petitioner does not stand on merit.

4. We have considered the submissions canvassed by the respective parties. We have also gone through the application submitted by the petitioner as has been produced. It is not a matter of debate that the petitioner had applied from Scheduled Caste-Sports-Marathi Medium category and the Sports certificate of the petitioner has been invalidated. The Sports certificate is only of participation and not of merit in the said tournament or sports.

5. The contention of the petitioner that the petitioner ought to have been considered from the open category, could have been considered, however, as is submitted by the respondents, the petitioner has secured 133 marks and the last candidate in the open category has secured 147 marks. As such, the petitioner cannot be selected from open category also. The petitioner had applied from a particular category and has to be considered from the said category. As such, the prayer in writ petition cannot be granted. In view of that, writ petition stands disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-