

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 501 OF 2004

Balaji Sitaram More  
Age 28 years, Occ. Nil  
R/o. Vasarni, Tq. Javal,  
District Nanded

...Petitioner

versus

1. The State of Maharashtra,  
Through the Secretary  
Ministry of Transport  
Maharashtra State, Mumbai
2. The Transport Commissioner,  
Admn. Bldg. 4<sup>th</sup> floor,  
Govt. Colony, Near  
Dr. Ambedkar Garden,  
Mumbai 51.
3. Regional Transport Officer,  
Aurangabad Region,  
Near Railway Station  
Aurangabad
4. The Dy. Regional Transport Officer  
RTP Office, Nanded
5. The Collector,  
Collectorate,  
Nanded

...Respondents

.....  
Mr. A.S. Golegaonkar, advocate for the petitioner  
Mr. D.B. Bhange, A.G.P. for respondent No.1 to 5  
.....

**CORAM : A. V. NIRGUDE AND  
V. K. JADHAV, JJ.**

**DATED : 2<sup>nd</sup> SEPTEMBER, 2015**

**JUDGMENT (PER A.V. NIRGUDE, J.):-**

The facts leading to this petition, in short, can be stated as under:-

1. On 7.9.1997, the petitioner's father, who was Government servant expired while in service. The petitioner thus became eligible for being appointed in Government service on compassionate ground in view of various Government Resolutions. Accordingly, the Collector, vide his letter dated 6.8.2001 recommended the petitioner's name to respondent No.3 for appointing the petitioner on compassionate ground in the office of respondent No.4 on class IV post i.e. Watchman.

2. In spite of specific directions of the Collector, the petitioner was not appointed till September, 2003. The petitioner therefore, approached this Court and sought directions for implementing the Collector's order and for issuance of appointment order to him. During pendency of writ petition, Regional Transport Officer issued an order of appointment in favour of petitioner and so grievance of the petitioner stood redressed. However, it was found that the appointment order mentioned that the petitioner is appointed against the post reserved for S.T. category. The petitioner was also directed to produce tribe validity certificate, as it was one of the conditions in the appointment order. Learned counsel for the petitioner sought leave of the Court to amend the petition seeking setting aside of such condition. Leave is granted.

Amendment to be carried out within three days from today.

3. The Government Resolution dated 13.6.2003 deals with grant of appointment on compassionate ground. There is specific directions mentioned in clause 2 of Government Resolution that up to 5% posts should be earmarked for appointment on compassionate ground and no discrimination shall be made amongst the backward class and open category class candidates. In view of this, the Resolution creates 5% reservation to the persons entitled to be appointed on compassionate ground. No matter, whether they belong to reserved category or not. It is therefore, obvious that once the petitioner was found eligible and once he was appointed as candidate of such category, he cannot be placed in any other category even though he belongs to any reserved category, such as Scheduled Tribe, Scheduled Caste, Other Backward Category etc.

4. At admission stage, this Court had issued Rule for deciding this issue. The learned A.G.P. placed reliance on the reply. However, it could not convince us that there should be further reservation for reserved class candidates. As said above, the candidates, who are appointed on compassionate ground itself formed a class and there cannot be further classification on the basis of caste etc. amongst them. Therefore, the condition of production of tribe validity certificate, as mentioned in the appointment order stands set aside. It is made clear

that in case the petitioner claims any benefit during his service career on the basis of his Scheduled Tribe status, then it would be necessary for him to produce Tribe validity certificate.

5. Writ petition is disposed of accordingly. Rule is made absolute in the above terms. No costs.

**( V. K. JADHAV, J.)**

**( A. V. NIRGUDE, J. )**

rlj/