

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 4270 OF 2015

MAYUR ARUN JIRWANKAR

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

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Advocate for Petitioner : Mr. A. V. Indrale Patil

APP for Respondent/State : Mr. K.J. Ghutte

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CORAM : S.S. SHINDE

& P.R. BORA, JJ.

RESERVED ON : April 28, 2015

PRONOUNCED ON : May 05, 2015

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ORDER (PER S.S.SHINDE, J):-

This Writ Petition is filed with following prayer :-

“B. By issuing a writ of mandamus or any other appropriate writ, order or directions the respondents No.2 to 4 be directed to consider the claim of petitioner for appointment on the post of Junior Engineer from Open Category, in accordance with law

and consequently, the petitioner be issued such appointment order and for that purpose necessary directions be issued.”

2. It is the case of the petitioner that, the petitioner possesses the qualification of B.E. (Civil) in First Class Distinction. Pursuant to the requisition made by respondent No.2 to 4 for the post of Junior Engineer (Establishment), there were total 20 vacancies. Out of said 20 vacancies, 6 posts were for open category. It is the case of the petitioner that, in the said advertisement, it has been specifically mentioned that, if the qualified candidates from horizontal reservation is not available, then such posts may be filled in from respective category as per merit. Pursuant to the application made by the petitioner, the petitioner was called for written examination, which was of 200 marks scheduled on 2nd November, 2014. It is the case of the petitioner that, the petitioner, accordingly, had appeared for the written examination and the results were declared, wherein the petitioner secured 132 marks out of 200 marks. It is the case of the petitioner that, there was no candidate, who had

applied from ex-serviceman category for the post of Junior Engineer from open category. At the time, the respondents have prepared the selection list, which shows that, from open category two candidates were appointed and petitioner is kept in waiting list, whereas the post reserved for horizontal reservation from open category for ex-serviceman has been kept vacant, as no candidate from said category is available. Therefore, the petitioner vide representations dated 29th December, 2014 and 30th December, 2014 pointed out his grievance to the respondents. It is further the case of the petitioner that, the petitioner also relied on the provisions of Government Resolution dated 12th August, 2014, which specifically lays down the procedure and requirement for filling up the post meant for social and horizontal reservation. Despite receipt of the said representations, the Respondents have not taken any steps to ventilate his grievance. Hence this Petition.

3. The learned counsel appearing for the petitioner submits that, since the post reserved for horizontal reservation

from open category for ex-serviceman has been kept vacant as no candidate from said category is available, therefore, this Court may give directions to respondents to consider the claim of the petitioner for appointment on the post of Junior Engineer from open category.

4. In spite of service, none appears for the respondents. We have considered the submissions advanced by the learned counsel appearing for the petitioner. In the circumstances, we direct the respondents, in case no ex-serviceman candidate is available for the appointment from open category on the post meant for ex-serviceman, they may consider the claim of the petitioner on the post of Junior Engineer from open category, in accordance with law and on its own merits, and if necessary, after obtaining no objection certificate from the concerned District Sainik Welfare Officer confirming that, no such ex-serviceman candidate is available for the appointment on the post of Junior Engineer, as expeditiously as possible, preferably within three months from today.

5. The Petition is disposed of accordingly in the above terms.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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