

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

WRIT PETITION NO. 8580 OF 2014

Mahesh Dnyaneshwar Ghube .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Amit T. Ghute, Advocate for the Petitioner.

Shri K. G. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

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

DATE : 01ST JULY, 2015.

PER COURT :

. The affidavit in reply is filed by respondents stating the reasons for being unable to attend the Court earlier. The reason given is that, though there was communication from the office of the Government Pleader, same was not received by the deponent. It was sent to the wrong office.

2. The explanation given by the deponent is accepted.

3. The learned counsel for the petitioner submits that, the selection process was conducted for biology subject in respect of appointment to be made to the higher secondary faculty of the Ashram School. According to the learned counsel the petitioner

stood at top in the selection process. However, no appointment is given to the petitioner as yet. As the petitioner was selected and was at Sr. No. 1, the petitioner did not try for job opportunities else where. The learned counsel submits that, the respondents be directed to appoint the petitioner pursuant to the selection process conducted by them.

4. Mr. Patil, the learned Additional Government Pleader submits that, the petitioner was at top in the selection process for the post of biology subject. However, names were not subsequently recommended for the reason that, the higher secondary class in Ashram School was not started. The advertisement was given in anticipation that the higher secondary class in Ashram School would commence, but as it is not commenced, the appointment cannot be given.

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

6. It is not disputed by respondents that the petitioner has got the highest marks in the selection process of biology subject which was conducted pursuant to the advertisement (Exhibit - A).

7. It is the case of respondents that, the said advertisement was given in anticipation of starting higher secondary in Ashram Schools. However, the same has not been started. It has been

averred by respondents that, till date the higher secondary in ashram school has not been commenced.

8. We would have considered the case of the petitioner, had the respondents conducted any subsequent selection process or that the post for biology in higher secondary in ashram schools was available. As the post itself is not available, the case of the petitioner cannot be considered. It is also trite that mere name in the selection list does not give indefeasible right to be appointed.

9. Considering the above, the writ petition is disposed of. No costs.

10. The respondent No. 2/ Mr. Milind Gavade, the Additional Commissioner Tribal Development, Thane is present in the Court. Mr. Patil, the learned Additional Government Pleader makes oral request for recalling order of payment of cost. Considering the reasons given for non appearance earlier, we accept the said statement. The order with regard to payment of cost stands recalled.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]