

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 10148 OF 2014

BALIRAM YUVRAJ MALI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Kedar Balbhim R.

AGP for Respondents State: Mrs. S. A. Dhumal

Advocate for respondent No.3: Mr. P. P. Dama

Advocate for respondent No.4: Mr. N.K. Chaudhari h/for Mr. B. R. Loya

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**CORAM : S. V. GANGAPURWALA &
V. K. JADHAV, JJ.****DATE : 24th July, 2015****PER COURT :**

1. Heard learned counsel for the respective parties.
2. Mr. Kedar, the learned counsel for the petitioner states that the petitioner was misled by advertisement. As per advertisement, three posts were meant for Extension Officer, one was reserved for SC category, one for open and one for OBC (Deaf and Dumb) category. According to the learned counsel, the petitioner belongs to OBC i.e. Mali caste, however as he was not deaf and dumb, the petitioner has applied from open category. In the said form, it was stated that petitioner belongs to Mali caste, OBC category.

Learned counsel submits that corrigendum was issued on 10th September, 2014, wherein it is clarified that handicapped candidate would be filled in from any one of the categories as per availability of candidate and time to fill up form was extended till 26.09.2014. After

corrigendum, the petitioner paid Chalan on 13th September, 2014 for making application from OBC category and tried to fill in the form, however, computer system did not accept the form as, earlier form was filled.

3. According to the learned counsel for the petitioner, the fact that chalan was paid for filling the form from OBC category is writ large. According to the learned counsel, the petitioner is not at fault. The petitioner is at Sr. No.17 in the select list, whereas respondent No. 5 is at Sr. No. 19. The petitioner is more meritorious candidate from OBC category. Learned counsel submits that directions are required to be given to the respondents to appoint the petitioner from OBC category, for no fault of the petitioner, he is being made to suffer. The selection order of respondent No. 5 is illegal.

4. Mr. Choudhari, the learned counsel for respondent No.5 submits that the petitioner had not filled in the form from OBC category. The petitioner had never made any grievance regarding the fact that he has not filled in the in form from OBC category till the selection list was displayed. According to the learned counsel, in Clauses 8 and 9 of the advertisement, it is laid down that if candidate has got any problem in filling online form, the candidate can send E-mail, so also the petitioner could have contacted on help line. The same was not done.

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

6. It is a fact that pursuant to the corrigendum, the petitioner has not filled in the form from OBC category. Earlier the petitioner has filled in the form from open category. Respondent No.5 filed in the form from OBC category. It is also a fact that till selection list is published, the petitioner has not made any grievance that he has also tried to fill in the form from OBC category. It is only for the first time, after selection list is published, the petitioner has stated that he tried to fill in the form from OBC category but the system did not accept the form. The petitioner could have resorted to the remedies as laid down in clause 8 and 9 of the advertisement at the relevant time. Time to fill in form from OBC category was extended till 26th September, 2014 from 12.09.2014. Till that date, no grievance was made by the petitioner.

7. Considering the above, and the fact that the record shows that the petitioner had filled in the form from open category, case of the petitioner cannot be considered. Writ petition, as such, disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC