

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 11321 OF 2014

DRUPADA RAMNATH KARTULE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Kanawade Ajay T.
AGP for Respondents: Mr.K.G.Patil
Mr.Deshmukh Bhausahab S For R/2 And 4

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**CORAM : S. V. GANGAPURWALA &
V. L.ACHLIYA, JJ.
DATED : 12th MARCH, 2015**

P.C. :-

The learned counsel for petitioner states that petitioner had applied for the post of Conductor (Junior), the candidature of the petitioner is not considered on the ground that the batch was not in existence on 5/9/2012 and the same was issued to the petitioner on 6/9/2012. The learned counsel submits that the petitioner had applied for the batch on 3/9/2012 even had paid fees vide Challan on 3/9/2012 but the concerned authority gave remark "Batch out of stock". Hence, the batch is not issued and the same is issued on 6/9/2012. The learned counsel submits that pursuant to the examination conducted, the petitioner was in the wait list, however, on the ground that the said batch was not issued to the petitioner on 5/9/2012, the candidature of the petitioner is not considered.

2] Mr.Deshmukh, learned counsel for the respondent states that the terms of advertisement are specific. The documents only upto 5/9/2012 can be considered and no documents produced after

5/9/2012 can be considered. According to the learned counsel, there is a specific prohibition to consider documents after 5/9/2012 vide clause 19 of the advertisement. Learned counsel also relies on the Circular of the respondent dated 18/12/2014.

3] We have considered submissions canvassed by learned counsel for the respective parties. There cannot be any debate with the proposition that terms of advertisement are to be strictly construed.

4] In the present case, it would be seen that the petitioner had applied for the batch on 3/9/2012 even she had deposited the fees on the said date vide challan, however, it was the inability of the Regional Transport Office to issue said batch on 3/9/2012 as the batch was out of stock and the same was issued only on 6/9/2012, the petitioner cannot be faulted for the same. The petitioner had applied within the time specified. It was because of the circumstance beyond her control that is as the same was not available with the R.T.O., the batch could not be issued. Subsequently, the same is issued on 6/9/2012. Considering aforesaid peculiar facts of the case, we are inclined to direct the respondent to consider the candidature of petitioner and the candidature of the petitioner may not be refused only on the ground that the batch was obtained on 6/9/2012.

5] In the result, we pass following order :

a] The remark that the petitioner is not eligible for the post of Conductor dated 13/1/2014 on the ground that the batch was not upto the specified date is set aside. The respondent shall not refuse the candidature of the petitioner only on the ground that the batch was of subsequent date.

If there is no other impediment, candidature of the petitioner be considered on merits.

6] Writ Petition is disposed of. No costs.

V.L.ACHLIYA, J.

S. V. GANGAPURWALA, J.

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