

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

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WRIT PETITION NO. 11500 OF 2015

NADEEM KHA ABDUL KHA PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHERS

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Advocates for Petitioner : Mr. Mane Dhairyashil M. with
Mr.Nagargoje A.N.

AGP for Respondent/State : Mr. K.D. Munde

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CORAM : S.S. SHINDE & P.R. BORA, JJ.**Dated: December 18, 2015**

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PER COURT :-

Rule. Rule made returnable forthwith. By consent of the learned counsel appearing for the parties heard finally.

2. By way of filing this Writ Petition under Article 226 of the Constitution of India, the petitioner is seeking directions to the Respondents to issue appointment order in favour of the petitioner on the post of Police Constable. Further direction is sought to decide the representation dated 23rd March, 2015. It is the case of the petitioner that, the petitioner was selected for the post of Police Constable against the post reserved for O.B.C. category. However, the petitioner's caste claim was referred to the Scrutiny

Committee for verification. The Scrutiny Committee rejected the claim of the petitioner, vide order dated 15th February, 2011. By letter dated 23rd March, 2011, the Superintendent of Police, Osmanabad issued show-cause notice to the petitioner stating therein that, why his selection should not be cancelled. Being aggrieved by the decision of the Caste Scrutiny committee, invaliding the caste claim of the petitioner, the petitioner filed Writ Petition no. 2656 of 2011 before this Court. The said Writ Petition was disposed of by this Court on 4th October, 2011 thereby setting aside the order of the Caste Scrutiny committee invalidating the caste claim of the petitioner and the matter was remanded back to the Scrutiny Committee for further consideration so as to take decision afresh. Thereafter, again the Committee by its decision dated 27th June, 2007 invalidated the caste claim of the petitioner. Being aggrieved by the said decision of the Scrutiny Committee, the petitioner filed Writ Petition No. 8601 of 2012, which came to be allowed by judgment and order dated 21st January, 2015 and the Committee was directed to issue validity certificate and accordingly the validity certificate has been issued which is placed on record in compilation of the Writ Petition at Exhibit 'I' Page 39.

3. Upon hearing the learned counsel appearing

for the petitioner and the learned A.G.P. appearing for the Respondent/State and upon perusal of the pleadings in the Petition and the documents placed on record, and in particular, the contents of the show-cause notice issued to the petitioner by the Superintendent of Police, Osmanabad, the only reason which is mentioned in the said show-cause notice is that, since the petitioner's caste claim is invalidated why his selection should not be cancelled.

4. The learned counsel appearing for the petitioner submits that, though such notice was issued, as a matter of fact, the selection of the petitioner on the post of Police constable has not been cancelled till date. The petitioner has also filed representation to the office of the Superintendent of Police, Osmanabad on 23rd March, 2015 stating therein that, already the caste validity certificate has been issued by the Caste Scrutiny committee on 21st March, 2015 and accordingly the appointment order appointing the petitioner on the post of Police Constable may be issued. According to the learned counsel appearing for the petitioner, the said representation has not been decided by the Superintendent of Police, Osmanabad.

5. By way of interim relief, this Court directed the Respondent No.2 to keep one post vacant of Police

Constable from O.B.C. category. The learned counsel appearing for the petitioner submits that, apart from the fact that, one post is kept vacant in pursuant to the interim order passed by this Court, there are 51 vacancies of post of Police Constable.

6. In that view of the matter and since the validity certificate is already issued in favour of the petitioner, in our opinion, reason assigned in the show-cause notice would not survive.

7. In the light of discussion in the foregoing paragraphs, we direct the Respondent No.2 to take decision within three weeks about the appointment of the petitioner on the post of Police Constable subject to fulfillment of any other procedural requirement and not to deny the appointment to the petitioner on the ground that, he has not submitted the validation certificate within time.

8. Rule is made absolute on above terms. The Writ Petition is disposed of accordingly.

(**P.R. BORA, J.)**

(**S.S. SHINDE, J.)**

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