

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

WRIT PETITION NO. 48 OF 2015

**AMOL GAUTAM KAMBLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. S. S. Deshmukh
A.G.P. for respondent Nos. 1 and 2 : Mr. G. K. Naik-Thigale

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CORAM : S V GANGAPURWALA & V K JADHAV, JJ.
DATED : JULY 20, 2015.

PER COURT :-

1. Mr. Deshmukh, the learned counsel for the petitioner submits that respondent No. 3 appointed the petitioner after following due procedure. Even while issuing advertisement, permission was sought from the authorities. The authority granted permission to fill in the post by its order dated 20.11.2011. Thereafter, advertisement was issued. Pursuant to the duly constituted selection committee and after following due selection process, the petitioner was appointed. Proposal seeking approval to the appointment of the petitioner is rejected solely on the ground that one surplus employee is available. The learned counsel submits that it is not the case that the institution has not sought permission from the respondent authority. After complying all procedure, the petitioner has been appointed.

2. The learned AGP submits that, surplus candidates were required to be appointed. One Mr. Jadhav, who was directed to be

absorbed with respondent No. 3 institution, did not join. However, other person was required to be absorbed. Even No Objection is required by the authorities before filling in the posts. The same is not taken. The proposal is rightly rejected.

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

4. The fact that permission was sought before issuance of advertisement and filling in the post is a matter of record. On 20.11.2011, the Deputy Director had sanctioned permission for filling in the post subject to condition enumerated in the said order. The petitioner belongs to Scheduled Category. The post advertised was also for Scheduled Category. The contention of the respondent that, 'No Objection' was not taken, does not appear to be in conformity with the record and permission granted by the authorities itself. Even it is stated that the candidate who was declared as surplus did not join.

5. Considering the above, we pass the following order :

ORDER

I. The impugned order rejecting the proposal seeking approval to the appointment of the petitioner is quashed and set aside. The respondent authority shall re-consider the proposal submitted by the

institution seeking approval to the appointment of the petitioner on its own merits and shall not reject the same on the ground that surplus candidates are required to be absorbed as advertisement is issued by the institution after securing permission from the authority. The said decision be taken expeditiously and preferably within a period of four (4) months.

II. Writ Petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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aaa/-