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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1724 OF 2014

Mr. Ganesh Madhukar Patil

..Petitioner.

Vs.

Superintending Engineer, & Anr.

..Respondents.

Mr. Nitin P. Dalvi, for Petitioner.

Mr. P.P. Kakade, AGP for Respondent No.2-State.

**CORAM: NARESH H. PATIL &
A.S. GADKARI, JJ.**

DATE : 13th January 2015.

P.C.

Heard.

2 The Petitioner participated in the selection process to the post of Clerk-cum-Typist in the office of Executive Engineer, Ghatghar Project pursuant to advertisement issued by the Respondents. The Petitioner belongs to Other Backward Class and had applied for the OBC seat. Under the said advertisement, the Non Creamy Layer Status Certificate was to be submitted by the Petitioner. The condition stipulated that the said Certificate ought to be in effect for the period between 31st March 2008 to 1st September 2008.

3 The Petitioner's case is that though he had applied for getting Non Creamy Layer Status Certificate, he could get it in the month of December 2008.

4 The Petitioner's appointment order was quashed by a communication dated 19th June 2009 by the Respondents, as he failed to submit the Non Creamy Layer Status Certificate during the prescribed period.

5 The Petitioner challenged the said communication before the Maharashtra Administrative Tribunal, Mumbai. By judgment and order dated 27th January 2014, the Tribunal dismissed the Original Application filed by the Petitioner. However, the interim relief granted by the Tribunal in the proceedings was continued for a period of four weeks.

6 The learned Counsel appearing for the Petitioner submitted that the Non Creamy Layer Status Certificate was available with the Petitioner in the month of December 2008. He applied for the said Certificate prior to 1st April 2008, but he could not get in time. The Petitioner had discharged his duties for a period of six-years. He, therefore, submits that it is unjust to terminate the Petitioner at this stage.

7 The learned AGP supported the order passed by the Trial Court. The Respondents filed an affidavit-in-reply through Shri Surendra

Devidasrao Karalay.

8 We have perused the record placed before us. We do not find any perversity or error in the view taken by the Trial Court. The Petitioner failed to comply with necessary condition. Such relaxation would be detrimental to the interest of the other candidates. The submission that the Petitioner had discharged his duties for near about six years would not validate his appointment. One of the essential conditions was not satisfied by the Petitioner. Though, we feel it that the Petitioner will lose his job after near about six years, but allowing him to continue by condoning the deficiency would amount to giving a wrong signal. The essential requirements of the selection process could not be diluted. The explanation given by the petition does not seem to be plausible and convincing for even considering some concessions to be given to the petitioner. We are therefore constrained to dismiss the petition. Writ Petition is accordingly dismissed.

9 At this stage, the learned Counsel appearing for the Petitioner prays for continuation of interim relief. We direct that the status-quo as on today shall be maintained for a period of 4 weeks.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)

