

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 3858 OF 2011**

Vaibhav Vithoba Marathe

....Petitioner.

Vs.

The State of Maharashtra and ors.

.....Respondents.

Mr. N. V. Bandiwadekar for the Petitioner.

Smt. Sushama Bhende, AGP for the Respondent Nos. 1 to 4.

**CORAM : SMT. VASANTI A. NAIK AND  
C.V. BHADANG, JJ.****DATE : 07.01.2015****P.C.:-**

By this Petition, the Petitioner seeks a direction to the Respondent Nos. 5 and 8 to appoint him on the post of peon in pursuance of the advertisement dated 26.07.2008.

According to the Petitioner, in pursuance to an advertisement issued in the year 2008, the Petitioner was selected on the post of peon and was placed in the waiting list. It is the case of the Petitioner that after the other selected candidate who was entitled for appointment declined to accept the post, it was necessary for the management to appoint the Petitioner, but the management failed to do so. Instead, the management

issued a fresh advertisement in March/April 2010 inviting applications from candidates interested in appointment to the post of peon. It is the case of the Petitioner that instead of appointing the selected candidates of the year 2008, the Respondent-management has appointed some other candidate on the post of peon. The Petitioner has, therefore, sought a direction to the Respondents to appoint the Petitioner on the post of peon. The Petitioner has sought a further direction to the Respondents not to grant approval to the appointment of any other candidate on the said post.

This Court has concluded, as could be seen from the order dated 13th September 2013 that the Petitioner cannot be appointed on the post of peon, on the basis of the advertisement dated 26.07.2008. The prayer of the Petitioner for appointment on the post of peon was rejected by the said order. The Court, however, directed the Respondents to file an affidavit explaining why some other person was appointed on the post of peon though he had not participated in the selection process.

In pursuance of the said order, the Respondent No.6 has filed an additional affidavit. It is stated in the additional affidavit that the Petitioner did not apply in pursuance of the advertisement issued by the Respondents in the year 2010. It is stated that the management has not appointed a peon on permanent basis and the Respondent No.5 has deputed a peon, who is not a staff member of the Respondent No.6 to the Respondent No.6-school to tide over the difficulties faced by the school in

the absence of the peon. It is denied by the Respondents that the Respondent No.6-school has filled the post of peon without following the regular selection process. It is stated that the Petitioner cannot make a grievance against the management for not appointing the Petitioner, specially when the Petitioner has not applied in pursuance of the advertisements issued in March/April 2010. It is stated that the person who is temporarily deputed as a peon to the Respondent No.6-school is only paid a honorarium and is not paid the salary and other allowances.

On reading of the affidavit in reply, it is clear that the management has not appointed any other person on the post of peon on regular basis without following the due process of recruitment. Neither can the Petitioner be appointed on the post of peon in pursuance of the advertisement issued in the year 2008, nor can the Petitioner have any grievance in regard to the appointment of some other person on the post of peon on temporary basis.

Since there is no merit in the writ petition, the same is dismissed with no order as to costs.

**(C.V. BHADANG, J.)**

**(VASANTI A. NAIK, J.)**