

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application No.333 of 2015 (for Review)

In

Writ Petition No.5612 of 2014 (D)

(Ku. Arti d/o Vitthalrao Warkhade v. Maisaheb Samajik and Shaikshanik
Sanstha and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri P.P. Thakare, Advocate for Applicant-Petitioner.

Coram : R.K. Deshpande, J.

Dated : 30th March, 2015

This Court has dismissed the petition challenging the order dismissing the appeal filed by the applicant-petitioner taking exception to the order of her termination. The order dismissing the petition being short, is reproduced below :

“ *The School Tribunal has dismissed the Appeal No.STC/07/2012 filed under Section 9 of the M.E.P.S. Act, challenging her termination from service with effect from 09.04.2008 as 'Shikshan Sewak'. One of the reasons recorded in dismissing the appeal is that, the petitioner has not come up before the Court with any definite stand in respect of vacancy against which she was appointed.*

Undisputedly, the petitioner was appointed pursuant to the advertisement dated 18.12.2006 as 'Shikshan Sewak (PTI)' in the High School against the post which was reserved for O.B.C. Category. The

petitioner claims that she belongs to O.B.C. Category. The Education Officer has refused to grant approval on the ground that the appointment was against the post reserved for S.T. Category.

It is the case of the petitioner in the memo of appeal that her appointment was against the post reserved for S.T. Category. The petitioner does not belong to S.T. Category. There is also a question as to whether there existed a vacancy for appointment as High School Teacher, as one Shri S.M. Raut (Graduate Teacher) who was teaching standard 5th to 7th in the School was promoted to the post of High School teacher, upon retirement of one Shri V.M. Urkunde (PTI). There is no specific stand with which the petitioner came forward before the School Tribunal, nor it is the case of the petitioner for continuation in service as 'Shikshan Sewak' to teach standards 5th to 7th. No interference is called for. The writ petition is dismissed."

The learned counsel for the applicant-petitioner does not dispute the factual position that the petitioner belongs to Other Backward Class category, and that in the memo of appeal, this fact is stated along with the another fact that the post was reserved for Scheduled Tribe category. In view of this, it is apparent that the petitioner could not have been appointed as a regular candidate in the post reserved for Scheduled Tribe category. In the review application, the claim of the petitioner is that the matter be remanded back to the School Tribunal with liberty to the petitioner to correct the mistakes made in the memo of appeal. The learned counsel for the applicant-petitioner submits that the post was not reserved for Scheduled Tribe category and, therefore, the petitioner be permitted to amend the memo of appeal.

It is not possible for this Court to entertain this review application, permitting the petitioner to correct the mistakes in the memo of appeal after dismissal of the petition.

The review application is dismissed.

Judge.

Lanjewar