

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2077/2014

(ASHUTOSH HARIHAR MASATKAR **VERSUS** THE STATE OF MAHARASHTRA & ANOTHER)
 WITH

WRIT PETITION NO. 4296/2014

(SHRIPAD DHARERAO MOHOD **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

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

Court's or Judge's orders

None for the petitioner in WP 2077/14.
 Shri A.R. Wagh, counsel for the petitioner in WP 4296/14.
 Shri N.R. Patil, A.G.P. for the respondent-State.
 Shri J.B. Kasat, counsel for the R-Zilla Parishad.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : AUGUST 14, 2015.

Since the issue involved in these petitions is identical and they arise from the proceedings initiated in pursuance of an advertisement issued by the Zilla Parishad on 19.04.2013, they are heard together and are decided by this common order.

The Zilla Parishad had published an advertisement in the daily newspapers on 19.04.2013 thereby advertising two posts of Extension Officer, one for the Open Category and the other for the Scheduled Castes. Admittedly, the petitioner in Writ Petition No.2077 of 2014, Shri Ashutosh Masatkar and the petitioner in Writ Petition No.4296 of 2014, Shri Shripad Mohod, had applied in pursuance of the advertisement. The select list was published by the Zilla Parishad on 13.06.2013. The name of Shri Ashutosh Masatkar was not placed in the select list and, therefore, he filed Writ Petition No.3420 of 2013. The said writ petition was disposed of with a direction to the Collector to take a decision on the entitlement of Shri Masatkar considering the available vacancies. The Collector took a decision in the matter and held that it was not

possible for the Zilla Parishad to appoint any applicant on the post of Extension Officer from the Open Category as in view of the order of the High Court dated 04.07.2013 in Writ Petition No.2626 of 2002, Shri Arbat was appointed as an Extension Officer on compassionate ground from the Open Category. According to the Collector, no post in the Open Category remained vacant in view of the order of the High Court dated 04.07.2013 in Writ Petition no.2626 of 2002 and, hence, the vacancy in the Open Category under the advertisement got filled. The Collector held that in view of the subsequent development no candidate that had applied from the Open Category in pursuance of the advertisement dated 19.04.2013 could be appointed on the post earmarked for the Open Category. The said order of the Collector is challenged by Shri Ashutosh Masatkar in Writ Petition No.2077 of 2014. So also, Shri Shripad Mohod, the petitioner in Writ Petition No.4296 of 2014 has sought a direction to the Zilla Parishad to appoint him on the post of Extension Officer as he is placed at Sr.No.1 in the select list.

On hearing the learned counsel for the petitioner in Writ Petition No.4296 of 2014 and the learned Assistant Government Pleader and the learned counsel for the Zilla Parishad, it appears that the prayers made in the petitions cannot be granted. There was only one vacancy in the post of Extension Officer from the Open Category to be filled in by nomination on the date of issuance of the advertisement, i.e. 19.04.2013. Shri Masatkar as well as Shri Mohod had applied for the said post. The selection list was published on 13.06.2013. Shri Mohod was placed at Sr.No.1 in the selection list. Since according to Shri Masatkar, he was entitled to be placed at Sr.No.1 in the select list, he filed Writ Petition No.3429 of 2013. The said writ petition was disposed of with a direction to the Collector to hear Shri Masatkar and take a suitable decision on his entitlement for the appointment on the post of Extension Officer from the Open Category within a period of two

weeks. The Collector held that Shri Masatkar was not entitled to be placed in the select list and further held that no applicant could have been appointed on the post of Extension Officer from the Open Category in furtherance of the advertisement dated 19.04.2013 as at the relevant time, there was only one vacancy in the post of Extension Officer from the Open Category and the said post was filled in view of the orders of this Court in Writ Petition No.2626 of 2002. The Collector held that since the post that was advertised on 19.04.2013 was filled by nominating Shri Arbat on the said post in pursuance of the order dated 04.07.2013, the only existing vacancy in the Open Category was filled.

The Collector rightly considered that it was made clear by the advertisement that in case the posts are reduced, no candidate would be entitled to be appointed. We find that the order of the Collector is just and proper as at the relevant time, only one post from Open Category could be filled by nomination and since the said post was filled by appointing Shri Arbat in terms of the judgment dated 04.07.2013 in Writ Petition No.2626 of 2002, none of the applicants that had applied for the post from the Open Category could have been appointed. We do not find that the appointment of Shri Arbat on the post of Extension Officer in the Open Category is by promotion as it was his case before the Industrial Court that he was entitled to be appointed on the post of Extension Officer on compassionate ground and the said claim of Shri Arbat was accepted. Since the post that was vacant at the time of issuance of the advertisement got reduced and since none of the applicants were appointed in the post from Open Category before Shri Arbat could be appointed in the same, there was no reason to allow the representation of either Shri Masatkar or Shri Mohod. It is stated on behalf of Shri Mohod that presently there are two vacancies in the post of Extension Officer from the Open Category. If the vacancies have arisen subsequently, it would be for the Zilla Parishad to take appropriate steps to fill the vacancies by following

the due procedure prescribed by law. Neither Shri Masatkar nor Shri Mohod can claim the appointment on the post of Extension Officer from the Open Category on the vacancies that have arisen subsequently.

In view of aforesaid, the writ petitions are dismissed with no order as to costs.

JUDGE

JUDGE

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