

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 5538 /2015

(Shri Damodar s/o Bapuji Gedakar vs. The State of Maharashtra and others)

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

Court's or Judge's order

Shri P.J. Mehta, Advocate for the petitioner

Shri S.M. Bhagde, Asst. Govt. Pleader for respondents

CORAM : SMT. VASANTI A. NAIK &
A.I.S. CHEEMA, JJ.

DATED : 28th October, 2015.

Heard.

By this petition, the petitioner seeks a direction to the respondents to appoint/absorb the petitioner, as per his placement, in the list of 'Project- affected persons.'

The land of the petitioner's mother was acquired in the year 1980 -1981. At the relevant time, the petitioner was eight years of age. It is the case of the petitioner that the petitioner applied for the certificate as a Project-affected-person, on 10.1.2000, so that the petitioner could apply for appointment as a project-affected person. The District Rehabilitation Officer rejected the prayer made by the petitioner for grant of the certificate. The petitioner, again, approached the respondents

for issuance of the certificate and, according to the petitioner, a certificate was issued to the petitioner on 21.10.2013. The petitioner applied for appointment in Class III category, on the basis of the certificate, after the certificate was received. The application of the petitioner was rejected by the impugned communications dated 31.5.2014 and 2.2.2015. The petitioner has challenged the communications rejecting his application for direct appointment.

On hearing the learned counsel for the parties and on a perusal of the impugned orders, it appears that the respondents were justified in rejecting the prayer made by the petitioner for direct appointment on a Class III or Class IV post, without participating in the selection process. The respondents rightly relied on the Full Bench judgment of this Court, reported in 2009 (4) Mh.L.J. 961: (Rajendra Pagare vs. State). It is laid down in the Full Bench judgment that the posts reserved for project-affected-persons must be advertised, to enable the eligible candidates from that category, to submit applications and compete with each other. It is further held that a Project-affected person cannot be appointed without advertisement of the posts and by ignoring the qualifications and merit of the candidates. Apart from the judgment of the Full Bench, there are other reasons for denying the relief to the

petitioner. The land of the petitioner's mother was acquired in the year 1980. The petitioner attained the age of majority in the year 1993. As per the averments in the Writ Petition, the petitioner claims to have applied for a Class III or Class IV post after he received the project-affected person certificate, in the year 2013. If the petitioner had applied for the certificate in the year 2000 and the petitioner was not granted the same, the petitioner could have filed appropriate proceedings for a direction to the respondents to issue the same. Also, the petitioner could have applied for the post after he attained majority. The Petition suffers from laches. Even otherwise, in view of the settled position of law, a project-affected person cannot be appointed directly without participating in the selection process and without competition.

In view of the aforesaid, the Writ Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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