

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

Writ Petition No. 5536 of 2015

(Bharatlal S/o Isulal Rahangadale Vs. The State of Mah. through its Secretary,
General Administration Dept. and anr.)

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

Court's or Judge's order

Smt. Neeta Jog, Advocate for the petitioner
Shri A. M. Joshi, AGP for the respondents

**CORAM : Smt. Vasanti A. Naik and
Prasanna B. Varale, JJ.**

DATE : 7-12-2015.

Heard.

By this petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal dated 20-4-2015 dismissing the Original Application filed by the petitioner.

In pursuance of an advertisement issued by the respondents inviting applications for appointment on the posts of Assistant Teachers, the petitioner had applied for a post reserved for Other Backward Classes (Part Time) category. According to the petitioner, the petitioner secured 118 marks and since there was only one post earmarked for the Other Backward Classes, the petitioner was not selected and Shri Bhaskar Rajgade was selected as he secured more marks. The petitioner, therefore, made a prayer before the Tribunal for including the name of the petitioner in the waiting list. While seeking the aforesaid relief, the petitioner submitted that

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candidates from the Open category were placed in the waiting list though they had secured less marks than the petitioner. The original application filed by the petitioner was dismissed by the Tribunal by the impugned order on the ground that since only one post was earmarked for the Other Backward Classes and since the same was filled in by the candidate securing more marks than the petitioner, the claim of the petitioner for appointment on the post from Other Backward Classes (Part Time) or placing his name in the select list did not arise. The order of the Tribunal is challenged in the instant petition.

On hearing the learned counsel for the parties, it appears that there is no scope for interference with the impugned order in exercise of the writ jurisdiction. There was only one post earmarked for Assistant Teacher from Other Backward Classes (Part Time). The petitioner had secured only 118 marks whereas the candidate who was selected and appointed, namely, Shri Bhaskar Rajgade has secured 125.67 marks from Other Backward Classes (Part Time) category. Since only one post was reserved for the Other Backward Classes (Part Time) category and since the petitioner admittedly did not secure the highest marks and Shri Bhaskar Rajgade was selected and appointed, the Tribunal rightly dismissed the original application filed by the petitioner. There is no question of including the name of the petitioner in the waiting list for the Other Backward Classes (Part Time) category when only one post was earmarked

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for the category. The submission made on behalf of the petitioner that one of the candidates has not joined in the Open category and therefore, Shri Bhaskar Rajgade could be shifted to the said vacant post and the petitioner can be appointed on the post of Shri Bhaskar Rajgade is liable to be rejected for more reasons than one. Firstly, such a plea is not raised by the petitioner in the original application filed before the Maharashtra Administrative Tribunal. New facts and material cannot be brought before this Court when this Court is only considering the correctness of the order of the Maharashtra Administrative Tribunal. Also, it is rightly pointed out by the learned Assistant Government Pleader that the petitioner has not secured the second highest marks amongst the candidates from the Other Backward Classes (Part Time) category, inasmuch as two candidates applying from the Other Backward Classes (Part Time) category and qualified to teach the subjects of History and Economics have secured 122 and 119 marks respectively. No fault, therefore, can be found in the order of the Maharashtra Administrative Tribunal in dismissing the original application.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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