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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.8050/2015

Sunil S/o Annasaheb Pawar

..Petitioner..

Versus

The State of Maharashtra & others.

...Respondents..

.....

Shri M.S.Taur, Advocate h/f Shri Amol Kakade, Advocate for the Petitioner.

MS.S.S.Raut, AGP for Respondent Nos. 1 & 2.

Shri Prashant Nagarsoge, Advocate h/f Shri R.J.Godbole, Advocate for Respondent No.3

Shri.K.D.Mote & Shri T.S.Lodhe, Advocates for respondent no.4.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 19.10.2016

ORDER :

1] The learned counsel for the petitioner states that the petitioner was appointed in the year 2006. The petitioner was illegally terminated. The petitioner filed an appeal before the School Tribunal. The appeal is allowed. The petitioner is reinstated in service. The order was challenged before this Court. This Court issued directions directing the management to submit the

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proposal. Pursuant thereto, the management submitted the proposal seeking approval to the appointment of the petitioner. The said proposal is rejected on altogether erroneous grounds. According to the learned counsel, the petitioner has the validity certificate as belonging to Kunbi OBC. According to the learned counsel, the Roster as of the year 2006 will have to be considered while considering the validity about the appointment of the petitioner. According to the learned counsel, the Roster of the year 2014 was being considered. At that time, the reservation applicable was 50% whereas in the year 2006, applicable reservation was 34%. The learned counsel further submits that the Roster as approved in the year 2011 by the B.C. Cell was also on record. All these aspects are not considered and only on the ground that the backlog of scheduled tribe category existed, the proposal seeking approval to the appointment of the petitioner is rejected.

2] The learned counsel for the respondent nos.3 & 4 submits that as per the directions of this Court, the proposal was submitted by the management to the respondent no.2. The appointment of the petitioner was

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not as against the seat reserved for ST category. The petitioner has been validly appointed.

3] The learned AGP states that as per the Roster, the backlog of ST category candidate existed. As the petitioner does not belong to ST category, the proposal is rightly rejected. Even there were various compliances which were required to be made by the management, the same were not made. The reasons have been given by the Education Officer while rejecting the proposal seeking approval to the appointment of the petitioner.

4] It is manifest from the record that the petitioner was appointed in the year 2006 and was thereafter terminated. The petitioner approached the School Tribunal. The School Tribunal allowed the appeal of the present petitioner and directed reinstatement holding that the appointment of the petitioner was legal and valid. In fact, the proposal was required to be submitted by the management to the Education Officer in time. The same does not appear to have been done.

5] Be that as it may, upon the directions of this Court, the management submitted the proposal, though belatedly. The petitioner contends that he has been

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issued the validity certificate as belonging to Kunbi OBC. The Roster approved by the B.C. Cell is to be supplied and submitted by the respondent nos.3 & 4 to the respondent no.2. The same cannot be said to be the fault of the petitioner. The Education Officer was required to consider the Roster as per the reservation applicable in the year 2006 when the reservation applicable to such schools was 34% and not 50%. It appears that while passing the impugned order, the said aspect has not been considered by the Education Officer.

6] The impugned order is quashed and set aside. The petitioner and the management shall appear before the Education Officer on 15.11.2016. The respondent nos.3 & 4 shall place on record before the Education Officer the Roster duly approved by the B.C. Cell as in the year 2006. The Education Officer shall consider the reservation applicable in the year 2006 i.e. 34% and consider the proposal seeking approval to the appointment of the petitioner afresh. The petitioner may also produce the validity certificate issued to him before the Education Officer. The compliances as are required and detailed in the impugned order shall be made by the

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parties. On receipt of the same, the Education Officer shall decide the said proposal expeditiously and preferably within a period of six months from the date of appearance of the petitioner before him. The writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)