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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2911/2015

Uddhav s/o Rangnath Suryawanshi,
age 41 yrs., occu.service,
c/o Shivaj s/o Ramrao Kotsulwar,
Basweshwar Galli, Hadolthi.
Tq.Ahmedpur Dist.Latur.
...Petitioner..

Versus

- 1] The State of Maharashtra ,
through its Secretary,
Social Welfare Department,
Mantralya, Mumbai.
- 2] The Commissioner,
Disabled Welfare Department,
Pune. Charch Gate, Pune-1.
- 3] The Divisional Social Welfare Officer,
Latur Division, Latur.
- 4] District Social Welfare Officer,
Zilla Parishad, Latur.
- 5] Krantijyot Mahila Mandal, Jalkot.
Tq.Jalkot Dist.Latur.
Through its President.
- 6] Sant Gadge Baba,
Residential Ear Deaf School,
Hadolthi Tq.Jalkot Dist.Latur.
Through its Head Master.
...Respondents...

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Shri R.I. Wakade, Advocate for petitioner.
Smt.R.P. Gour, AGP for respondent nos.1 to 3.
None present for respondent no.4 though served.
Shri J.M. Murkute, Advocate for respondent nos.5 & 6.

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

DATE: 15.12.2016

ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :

1] Heard learned counsel for the parties. Rule. Rule made returnable forthwith and with the consent of learned counsel for the parties, the petition is taken up for final hearing at this stage.

2] Mr.Wakade, learned counsel for the petitioner submits that the petitioner was appointed in the year 2003 in fact from open category. Other candidate was appointed from the reserved category. According to the learned counsel, even approval is granted to the petitioner in the year 2007 wherein it is nowhere shown that the petitioner is occupying the post meant for reserved category;. The approval has been granted to the petitioner upto 2013, however, subsequently the proposal has not been forwarded by the institution. The learned counsel submits that the institution is now contending that the petitioner is appointed from ST category. Though the petitioner belongs to ST category, still his appointment is from the open category. The learned

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counsel submits that at the relevant time in the year 2003, the reservation applicable was 34%. The Roster will have to be considered from that point of view. However, the Roster as approved by the BC Cell in the year 2014 is considering the reservation to the extent of 50%.

3] Mr. Murkute, learned counsel for the institution submits that the petitioner is appointed from the reserved category. Even his application filed in the year 2005 states that the petitioner had applied from ST category. Even the petitioner has moved the scrutiny committee for validation of his tribe claim. The said documents are filed on record. The learned counsel submits that the Roster is approved by the BC Cell and as per the approved Roster also, the petitioner is shown as against the reserved category. The learned counsel further submits that the institution has already forwarded the proposal to the respondent – authority seeking approval to the appointment of the petitioner from ST category and the same is pending with the authority.

4] We have heard the learned AGP also.

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5] The fact that the petitioner is serving with the respondent – institution is not disputed. It is also not disputed that upto the year 2013, the appointment of the petitioner is approved. Subsequent proposal was not submitted. It is also the fact that the validation proceedings in respect of the tribe claim of the petitioner are pending consideration with the committee. The petitioner has already approached the scrutiny committee in that regard. The said proceedings are not yet decided. The Roster is approved by the BC Cell. In the said approved Roster, the petitioner is shown occupying the post meant for ST category candidate.

6] The petitioner may approach the BC Cell with regard to his grievance that at the relevant time when the petitioner was appointed, the post was meant for open category.

7] The respondent – institution has already forwarded the proposal seeking approval to the appointment of the petitioner from ST category to the respondent no.4. The respondent no.4 shall process the said proposal and take decision on it expeditiously and preferably within three months. He shall not reject the proposal only on the

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ground that the validation proceedings are pending. Of course, the parties can take further steps pursuant to the judgment of the committee in the validation proceedings so also if the petitioner approaches the BC Cell and some further orders are passed by the BC Cell in tune with the same.

8] Rule is made absolute accordingly. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)