

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 4884 OF 2015**

ROHINI PADMAKAR PAWAR

VERSUS

STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Narwadkar Mrigesh D.

AGP for Respondent/State : Mrs. A.V. Gondhalekar

Advocate for Respondent No.2 : Mr. D.N. Bankar

Advocate for Respondent no.3 : Mr. Shaikh R. R.

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CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.**Dated: April 11, 2016**

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PER COURT :-

Rule. Rule made returnable forthwith. By consent of the learned counsel appearing for the respective parties, heard finally.

2. The petitioner is seeking to quash appointment order dated 7th March, 2015 issued by respondent no.2 in favour of respondent no.3 as 'Sweeper/Peon'. The petitioner is also seeking directions to Respondent No.2 to issue appointment order in favour of present petitioner as a 'Sweeper/Peon' as per the advertisement dated 23rd August, 2014, since the petitioner is meritorious and eligible

candidate. It is an admitted position that, the petitioner as well as respondent no.3 have secured 92 marks in the written examination. Both the petitioner as well as respondent No.3, possess degree bachelors' qualification. Since, in the application tendered by the petitioner her qualification of M.A. first year was not mentioned, her claim for appointment was not considered and claim of Respondent no.3 came to be preferred. The petitioner has pointed out that, in the prescribed proforma of application provided by the Zilla Parishad, there is no column provided requiring the applicant to record higher qualification. The fact, however, needs to be noted that the petitioner as well as respondent no.3 are holders of bachelor's degree.

3. In the light of the facts mentioned above, the respondents shall have to examine claim of the petitioner and respondent no.3 for appointment in the manner prescribed by Government Resolution dated 27th June, 2008.

4. The learned counsel appearing for the petitioner and the learned counsel appearing for Respondent No.3 agree to cause

appearance before Respondent No.2 i.e. Chief Executive Officer, Zilla Parishad, Aurangabad on 20th April, 2016, and as such no separate notice requiring their presence before the Chief Executive Officer shall be necessary.

5. All the contentions on merits are left open to be agitated before Respondent no.2. Needless to observe, Respondent No.2 shall allow the petitioner and also Respondent No.3 to place on record relevant judgments/documents/Government Resolutions in support of their contentions.

6. The Petition stands disposed of in the above terms.

7. After decision is taken by the Chief Executive Officer, he will seek approval of the Collector for enforcement of his decision.

8. The parties to act upon an authenticated copy of this order.

(SANGITRAO S. PATIL, J.) (S.S. SHINDE, J.)