

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 378 OF 2016
IN
WRIT PETITION NO. 12417 OF 2015

Dr. Rakesh s/o Ramratan Jadhav ... Applicant

In the matter of

Dr. Smita Anand Tiwari ... Petitioner

V/s.

The State of Maharashtra & ors. ... Respondents

Mr. Anoop U. Patil for the applicant.

Mr. Hiten Venegaonkar i/b. Nankani Associates for original petitioner.
Mr. A.I. Patel, AGP for the State.

**CORAM : NARESH H. PATIL AND
A.A. SAYED, JJ.**

16th February, 2016.

P.C.

Heard.

2. The petitioner applied for the post of Associate Professor against

the advertisement no. 1/2015 issued by the Government Medical College, Medical Education and Drugs Department. In accordance with GR dated 25th May, 2001, it was mandatory for the petitioner to submit a Non-Creamy Layer Certificate. The petitioner applied for getting a Non-Creamy Layer Certificate to the Tehsildar in May 2015. The intervenor filed a complaint to the Tehsildar against issuance of Non-Creamy Layer Certificate in favour of petitioner. By an order dated 30th October, 2015 the Tehsildar cancelled the Non-Creamy Layer Certificate.

3. The petitioner has challenged the validity of Government Resolution dated 25th May, 2001 and the order passed by Tehsildar.

4. Learned Counsel appearing for petitioner submits that in view of guidelines framed by the Department of Personnel and Training of Central Government, the applicant did not furnish income of spouse for getting Non-Creamy Layer Certificate. Learned Counsel further submits that GR issued by the State Government is unreasonable and deserves to be quashed and set aside.

5. Learned AGP submits that petitioner at the relevant time failed to disclose her income which was more than Rs. 6 to 7 lacs. On this count also the petitioner was not entitled to get a Non-Creamy Layer Certificate. In accordance with GR, the petitioner ought to have disclosed income of her husband which is also said to be more than Rs. 6 to 7 lacs. Learned AGP, therefore, submits that petitioner was not entitled for Non-Creamy Layer Certificate.

6. Learned Counsel appearing for Intervenor has referred to Government Resolutions and annexures.

7. We have perused the record, Government Resolutions and the annexures. The record shows that the petitioner applied in her maiden name for getting Non-Creamy Layer Certificate. Prima-facie it is noticed that petitioner has neither disclosed her income nor her husband's income. The income of petitioner and husband's income exceeds Rs. 12 lacs whereas under the policy of the State Government one whose family income exceeds Rs. 6 lacs was not entitled for Non-Creamy Layer Certificate. The State framed this policy while reserving 30% posts for women from general category on certain conditions. As to whether these conditions were unreasonable or not would be looked into at the time of detailed hearing of the matter.

8. The application for Intervention is allowed.

9. We are not convinced to continue ad-interim relief which was granted on 11th November, 2015 by the Vacation Court. The ad-interim stands vacated.

10. At this stage, learned Counsel appearing for the petitioner submits that he would not press for interim-relief. The petitioner would prefer to revert back to the original post i.e. Assistant Professor. Petitioner may take appropriate decision.

11. We direct the State Government to issue appropriate instructions to

all the concerned officers that while scrutinizing application for grant of Non-Creamy Layer Certificate, the conditions in the GR and annexures to the GR must be meticulously followed. Necessary instructions be issued to the Collectors in the State of Maharashtra.

(A.A. SAYED, J.)

L.S. Panjwani, P.S.

(NARESH H. PATIL, J.)