

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

Writ Petition No. 1472 of 2015

Ku. Dipika Vinod Kosle

Vs.

State of Mah. through its Secretary, Women and Child Development Deptt., Mantralaya
Mumbai and another.

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

Court's or Judge's orders.

Mrs. R.S. Sirpurkar, counsel for petitioner.

Mr. A.V. Palshikar, AGP for respondent State.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.**

DATE : 1st April, 2016.

Submission of Advocate Mrs. Sirpurkar is, the horizontal reservation for women ought to have been worked out by keeping into consideration all vacancies and not proportionate vacancies by looking into vertical reservation. She submits that the ratio by Maharashtra Administrative Tribunal (for short MAT) in the impugned order of judgment of Hon'ble Supreme Court reported in 2009 (1) SCC (L&S) 1044 is misconceived.

Learned AGP appearing for respondent nos. 1 & 2 points out that during pendency of proceedings before MAT petitioner has been selected from the said category and is already in employment since 17.9.2013. He submits that challenge before

MAT was never amended and this fact was not pressed into service before that Tribunal.

Advocate Sirpurkar submits that petitioner has applied as open woman candidate and had she been considered accordingly, looking to her merit position, she would have been employed some time in the year 2011 itself. Thus, petitioner has in the process lost seniority by two years.

The question is whether while applying horizontal reservation vertical reservation could have been simultaneously looked into and then how it could have been worked out. The merit list prepared only on the basis of total marks places petitioner at serial no. 352 and in ladies category the name of petitioner therefore could have been after Serial No. 6 i.e. after name of Pallavai Anilrao Dharamthok and before name at Serial no. 7 i.e. name of Komal Anil Dhule.

However, as petitioner already is in employment and fact of procuring employment could not be pointed out to MAT, we grant petitioner leave to make appropriate representation to her employer pointing out this fact. If such representation is made within period of four weeks from today, employer shall consider it independently in accordance with law within further period of three months.

Leave all rival contentions open and with

liberty to petitioner to renew her grievance if cause of action thereafter arises, petition is disposed of. No costs.

JUDGE

JUDGE

Hirekhan