

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.203 OF 2016

Santosh S/o Uttamrao Somwanshi
and others. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.V.D.Gunale, advocate for the petitioner.
Mr.S.W.Munde, A.G.P. for the State.
Mr.A.N.Sabnis, advocate for Respondent Nos.3 and
4.

...

**CORAM : S.V.GANGAPURWALA AND
SMT.VIBHA KANKANWADI, JJ.**

Date : 02.11.2017.

PER COURT :

1. The proposal seeking approval to the appointment of the petitioners is rejected on the ground that there is a backlog of reserved category candidates.

2. It is the contention of the petitioners that the petitioners were appointed in the year 2005 and 2007. The petitioners are appointed from open category. The proposal seeking approval to their appointment is negated only on the ground that the backlog of reserved category candidate exist. The roster it appears is verified in the year 2014. At that time as per MEPS Rules, reservation provided is to the extent of 52%. The said amendment has come into effect from 1.10.2008. In the year 2005 and 2007, the reservation was to the extent of 34%. The roster will have to be considered qua the reservation applicable on the date the petitioners were appointed.

3. The Management may refer the roster as per staffing pattern of the year 2005 and 2007 to the BC Cell which would be verified by the BC Cell.

4. It is submitted that one post is already vacant and one additional post would become vacant in February 2018 and one additional

post is created. As such three posts are vacant and in view of additional Division being granted, two posts further would be available. The institution has given undertaking that they will fill in all these posts from reserved category candidates as per the backlog. The said statement is accepted as an undertaking to this Court.

5. The order negating the approval is based only on the ground of availability of backlog. It does not appear that the Deputy Director of Education has considered the reservation applicable as on the date of appointment of the petitioners.

6. We set aside the impugned order and direct the Deputy Director of Education to verify the dates of appointments of the petitioners and to consider the reservation applicable as on the date of the appointment of the petitioners. The institution shall also sent roster of the year 2005 and 2007 for verification to the BC Cell/competent authority. The Deputy Director of

Education shall thereafter consider the approval seeking appointment of the petitioners afresh and in case there is some backlog, the Deputy Director of Education shall consider that the Management has undertaken to fill in backlog from the reserved category and the same shall not be raised as a ground to reject the approval. The Deputy Director of Education is entitled to consider all the other aspects while considering the proposal for approval.

7. The Writ Petition is accordingly disposed of. No costs.

(SMT.VIBHA KANKANWADI, J.) (S.V.GANGAPURWALA, J.)

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