

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

WRIT PETITION NO. 4043 OF 2016
WITH WP/11849/2016

ADBASING HARICHAND CHANDWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.S.R.Barlinge, Advocate for the petitioner
Mr.K.D.Mundhe, AGP for the respondent/State

**CORAM : S.V. GANGAPURWALA &
S.M. GAVHANE, JJ.
DATED : 28.11.2017**

P.C. :-

. The proposal seeking approval to the appointment of the petitioner is rejected basically on the count that there was ban on recruitment, the prior permission of Education Officer was not obtained and that there are six Laboratory Assistants surplus which are required to be absorbed.

2. Mr.Barlinge, learned Advocate submits that the petitioner was appointed after following selection process. The petitioner had applied pursuant to the advertisement. The petitioner was appointed on vacant post created due to retirement of earlier Laboratory Assistant. The learned Advocate submits that the selection committee had selected the petitioner. The

petitioner is appointed from VJ-NT category.

3. The petitioner has been appointed from VJ-NT category. The ban on recruitment does not apply to the recruitments to be made from the reserved category. Moreover, the petitioner is appointed in the year 2011 prior to the G.R. dated 02.05.2012. It is stated that the petitioner is appointed on post rendered vacant on account of retirement of Laboratory Assistant Mr.Sonar. It is stated that intimation was given to the Education Officer about the vacancy being created.

4. Considering the fact that the petitioner was appointed from reserved category, we pass the following order.

ORDER

i. The impugned order is quashed and set aside.

ii. The respondent Education Officer shall reconsider the proposal seeking approval to the appointment of the petitioner afresh and shall not reject it on the count that there was ban on recruitment or surplus candidates were required to be absorbed and permission was not obtained.

iii. The petitioner and the Management may produce the record within 15 days before the Education Officer about the selection process being followed.

iv. The Education Officer thereafter shall decide the said proposal within four months.

v. The writ petition accordingly stands disposed of. No costs.

[S.M. GAVHANE, J.]

[S.V. GANGAPURWALA, J.]