

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

3 WRIT PETITION NO. 9993 OF 2017

IKRAMODDIN KHIYAMODDIN KHATIB
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Kalani Pravin N.
AGP for Respondents/State : Mrs. A.V. Gondhalekar

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.
DATE : 07.08.2017**

P.C. :-

. Mr. Kalani, the learned counsel for the petitioner, submits that the appointment of one person Shahebaz Hussain selected by respondent no.4 was cancelled by the Tribunal. The select list was published on 03.07.2014. The petitioner was at serial no.2. Before lapse of one year, the petitioner had approached the Tribunal, however, the Tribunal did not consider the grievance of the petitioner in its correct perspective. According to the learned counsel, respondent no.5 was already selected by respondent no.6 and, as such, it was the petitioner who would be at serial no.1 and on cancellation of appointment of Shahebaz Hussain on or about 21.10.2014, the petitioner ought to have been issued the appointment order. Now the respondent no.4 cannot take the plea that the wait list has lapsed. In fact the petitioner was at serial no.1. The

respondent no.4 failed to consider that the petitioner possessed higher qualification and ought to be at serial no.1.

2. The learned A.G.P. supports the order.

3. The petitioner and respondent no.5 secured equal marks. The respondent no.5 being senior in age was placed at serial no.1 and the petitioner at serial no.2. The petitioner did not possess higher qualification as he had only appeared for the third year B.Sc examination, however, had not got the degree. The petitioner and respondent no.5 both had qualification of 12th pass. However, respondent no.5 being senior in age was rightly placed at serial no.1.

4. The gravamen of the contentions of Mr. Kalani, the learned counsel, is that respondent no.5 was also selected by respondent no.6. In view of that it is only the petitioner who could have been considered by respondent no.4.

5. It is not brought on record by the petitioner that respondent no.5 was offered the post by the respondent no.4 and that respondent no.5 had refused to join. The petitioner would get a right only if within a period of one year from the publication of the wait list, the person above the petitioner is offered a post and does not accept it. Even otherwise

after lapse of one year i.e. on or about 03.07.2015, the wait list would lapse.

6. As there is nothing on record to conclude that the petitioner's turn had actually arrived for consideration for any vacant post, the case of the petitioner cannot be considered. The Tribunal has considered the said aspect.

7. In the light of the above, no case for interference is made out. The writ petition is dismissed. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]