

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7175 OF 2016

Namdeo S/o Dhanaji Yenchewad

Petitioner

V E R S U S

The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32, through
its Secretary and three others

Respondents

Mr. V.U. Jadhav, Advocate for the petitioner
Smt. M.A. Deshpande, A.G.P. for respondent Nos.1 & 2
Mr. H.D. Deshmukh, Advocate for respondent Nos.3 & 4

**CORAM : S.V.GANGAPURWALA AND
K.L. WADANE, JJ.**

DATE : 8th MARCH, 2017

PER COURT :

1. Mr. Jadhav, learned counsel for the petitioner submits that the validation proceeding in respect of Tribe claim of the petitioner is pending. The petitioner was selected by respondent No.3 as Assistant Teacher, however, the order was not issued to the petitioner. The learned counsel relies on the

Government Resolution dated 12th December, 2011 and submits that in case the validation proceedings are pending, the provisional order can be issued, however, the respondent-Institution did not issue any appointment order to the petitioner. The petitioner was working with the respondent-Institution. The respondents be directed to issue appointment order to the petitioner.

2. Mr. Deshmukh, learned counsel for respondent Nos.3 and 4 submits that the petitioner had applied in view of advertisement and was selected on the said post. However, as he was not possessing the Validity Certificate, the appointment order was not issued to the petitioner. In the next year, the post on which the petitioner was selected came to be abolished and in the subsequent year again the said post was reduced.

3. There cannot be any dispute with the proposition that in case the validation proceeding is pending and the candidate is selected, the provisional

order can be issued to such candidate.

4. It appears that the selection process was conducted in the month of July, 2012 and for the year 2013-14, the post on which the petitioner was selected, came to be abolished and till this date the same post stands abolished being in excess.

5. We could have considered the case of the petitioner for declaring the petitioner as surplus if he would have worked for three years continuously, but in the very next year of selection of the petitioner, his post stood abolished. Considering the above, no relief can be granted to the petitioner.

6. In view of above, Writ Petition is disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)

