

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

WRIT PETITION NO. 7736 OF 2013

Bhattacharaya Devidas Thakur ...Petitioner

VERSUS

The State of Maharashtra
and others ...Respondents

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Shri S.S.Dambe, advocate for petitioner
Smt. M.A.Deshpande, A.G.P. for respondent no.1
Shri S.K.Chavan, advocate for respondent nos.2 & 3

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 10th January, 2017

O R D E R :-

Mr. Dambe, learned counsel for the petitioner states that the petitioner was appointed on compassionate ground on account of death of his father as a peon. The petitioner was appointed from open category and not from reserved category. Notices, dated 10.7.2013 and 4.9.2013 are issued by the respondent thereby directing the petitioner to submit the caste certificate.

According to the learned counsel when the petitioner has not been appointed from the reserved category but has been appointed from the open category, the said demand is illegal.

2 Mr. Chavan, learned counsel for respondent nos. 2 and 3 submits that in view of the Government Resolution, dated 30.10.2010 the impugned notices were issued and as per the said Government Resolution, the petitioner is duty bound to submit the caste certificate.

3 We have also heard the learned A.G.P.

4 The Government Resolution, as referred to above, would be applicable if candidate has been appointed from reserved category. It is undisputed by respondents that the petitioner has been appointed from open category. The petitioner has not been given the benefit of reservation. As the petitioner has been appointed from open category, it was improper on the part of the respondents to

ask for the caste certificate. The petitioner would not be liable to undergo rigors of validation proceedings.

5 The Writ Petition is allowed. Rule is made absolute in terms of prayer clause 'B'. No costs.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)

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