

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

WRIT PETITION NO. 9925 OF 2016

Lalita Vishwambhar Birkale ...Petitioner

VERSUS

The State of Maharashtra
and others ...Respondents

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Shri P.V.Jadhavar, advocate for petitioner
Shri Y.G.Gujarathi, A.G.P. for respondent nos.1 to 3

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

DATED : 10th January, 2017

O R D E R :-

Mr. Jadhavar, learned counsel for the petitioner states that pursuant to the selection process the petitioner has been selected as Bandhani Sahayak from the Scheduled Tribe category, however, the appointment order is not issued only on the ground that validity certificate is not submitted.

2. Learned counsel submits that validation proceedings are pending. Learned counsel relies upon the Government Resolution, dated 12.12.2011.

3. Mr. Gujarathi, learned A.G.P. submits that the letter dated 9.9.2016 issued to the petitioner is abundantly clear. It states that the appointment order would be given only on submission of validity certificate. No fault can be found in the said letter.

4. We have considered the submissions. The Government Resolution, dated 12.12.2011 would be applicable in the present case. The petitioner is appointed after following due process. The validation proceeding in respect of said tribe claim is pending with the Scrutiny Committee. Same is not yet decided. To get validation proceedings decided is not in the hands of the litigant. The Government Resolution, dated 12.12.2011 permits the appointment of the selected candidate provisionally subject to submission of

validation proceedings. No equities are created in favour of such candidate also. This Court in Writ Petition No. 11745 of 2015 under order, dated 4.2.2016 in respect of the same Department has issued directions to appoint provisionally such candidate.

5. In the light of above, we pass following order.

6. In case the petitioner is otherwise entitled for appointment, the respondent shall not refuse to issue appointment order to the petitioner provisionally subject to the decision in the validation proceedings in respect of tribe claim of the petitioner. The respondent no.2 Committee shall decide the validation proceedings in respect of the tribe claim of the petitioner, expeditiously, preferably within nine months. Of course, the employer can adopt further course of action in tune with the judgment delivered by the Scrutiny Committee in the said validation

proceedings.

7. Writ Petition is accordingly disposed of.

No costs.

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

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