

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12086 OF 2016

Avinash Nagnathrao Aralkar

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri M. C. Swami, Advocate for the Petitioner.

Shri S. W. Mundhe, A.G.P. for Respondents.

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

DATE : **13th November, 2017**

PER COURT :

1. Mr. Swami, learned Advocate for the petitioner submits that petitioner belongs to OBC category. He had participated in the direct recruitment process for the post of Warden (Male), the same was pursuant to the advertisement. Three candidates were selected, one candidate was selected from O.B.C. category but not joined. The petitioner was second to the selected candidate from O.B.C. category. The respondents were duty bound to offer the said post to the petitioner, as the selected candidate did not join. The respondents never intimated to the petitioner the fact that candidate from O.B.C. category who was given the appointment order did not join. The petitioner came to know the said fact only in the year 2016, thereafter made an application. The same is not considered. If the candidate who is offered the post does not

join then the next candidate in the wait list has to be given the appointment order. The learned counsel relies on the judgment of the Apex Court in a case of **State of Jammu and Kashmir and others Vs. Sat Pal** reported in **AIR 2013 SCC 1258**.

2. Learned A.G.P. submits that for two years the petitioner did not approach the respondents. Subsequently, fresh advertisement is given and all the posts of Warden (Male) are filled in.

3. We had asked the learned A.G.P. as to whether any vacancy remains to be filled in. The learned A.G.P. on instructions states that not a single post of Warden (Male) is vacant from any category.

4. In view of the aforesaid statement, no relief can be given to the petitioner. The selection process was of the year 2014. It is stated that fresh advertisement is issued in the year - 2017 and the posts are filled in. In view of the statement made by the learned A.G.P. that no posts are vacant, the grievance of the petitioner cannot be considered.

5. The writ petition as such is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]