IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11900 OF 2015

Dr. D.Y. Patil Pratishthan & Anr. ... Petitioners

Vs.

Savitriphule Pune University & Ors. ... Respondents

Mr. Mihir Joshi, i/b Mr. Chetan Mali, Adv. for the Petitioners.
Mr. Rajendra Anbhute, Adv. for the Respondents Nos.1 and 2.
Mr. C.P. Yadav, AGP for Respondents Nos. 3 & 4.

CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.
DATE : 6 JUNE 2017.

P.C.:-

1. Rule. Rule made returnable forthwith, by consent.

2. By way of present Petition the Petitioner has approached this Court seeking a Writ of Mandamus directing Respondents to allow the Petitioner to fill in the post of Principal in the Petitioner No.2 college by advertising the post from the open category.

3. It is the contention of the Petitioner that since the post of Principal in the Petitioner No.2 college had fallen vacant, the Petitioner approached the Respondent University. Respondents Nos. 1

and 2, University have granted permission to fill up the post of Principal. However, the University granted permission subject to the condition that the said post would be filled in by a candidate belonging to Scheduled Tribe. Accordingly an advertisement has been issued. However, in spite of publishing an advertisement a suitable candidate from the Scheduled Tribe category did not apply. As such the Petitioner approached this Court seeking directions to Respondent to permit filling the post from an open category.

4. It is the contention of the Petitioner that an isolated post of the Principal cannot be reserved. The issue is no more *res integra*. Their Lordships of the Apex Court in the case of ***Dr. Chakradhar Paswan Vs. State of Bihar & Ors***.[1] as well as in the case of ***Post Graduate Institute of Medical Education and Research, Chandigarh V. Faculty Association & Ors.***[2] so also the constitutional bench of Apex Court consisting 9 Hon'ble Judges in the case of ***Indra Sawhney Vs. Union of India & Ors.***[3] have held that the isolated post cannot be reserved.

5. In that view of the matter insistence upon the post of Principal

1 AIR 1988 Supreme Court 959.
2 AIR 1998 SC 1767.
3 AIR 1993 Supreme Court 477.

which undisputedly is a singular post to be reserved is not justified in law.

6. The Petition, therefore, is allowed. The Respondents are directed to permit the Petitioner to fill post of Respondent No.2 college from an open category.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

(RIYAZ I. CHAGLA J.) **(B.R. GAVAI J.)**