

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

WRIT PETITION NO. 1730 OF 2017

Jalindar Nana Adsure

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Yuvraj V. Kakade, Advocate for the Petitioner.

Shri S. B. Pulkundwar, A.G.P. for the Respondent No. 1.

Shri M. N. Navandar, Advocate for Respondent Nos. 2 and 3.

Shri S. G. Chapalgaonkar, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 16TH JULY, 2018.

FINAL ORDER :

. Mr. Kakade, the learned counsel for the petitioner submits that, pursuant to the advertisement for the post of Majur (Labourer), the petitioner had applied. The petitioner does not possess certificate of Anshkalin employee. In fact, the petitioner never represented that he belongs to the category of Anshakalin employee, however, online form was filled in by the respondent No. 4 and in that mistake had occurred and wherein Anshakalin employee was wrongly tick marked as against the name of the petitioner. The learned counsel further submits that, the petitioner has secured 71 marks and even persons below the

petitioner are considered for filling the post from O.B.C. category for the post of Majur (Labourer). The learned counsel submits that, the petitioner also does not belong to Project Affected persons category (for short P.A.P.). Same was also wrongly tick marked by the respondent No. 4 in the online application form.

2. Mr. Navandar, the learned counsel for respondent Nos. 2 and 3 submits that as application form of the petitioner depicts that he belongs to O.B.C. P.A.P. and Anshakalin employee category, he was considered from Anshakalin employee category. The petitioner did not produce the certificate of the said category, as such his candidature was rightly rejected. The learned counsel further submits that, in absence of any certificate being produced he could not have been considered from Anshakalin employee category.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. There are rival contentions. The petitioner contends that he had never written that he belongs to P. A. P. or Anshakalin employee category and it was mistake at the behest of the respondent No. 4. The respondent No. 4 has filed affidavit stating that as per information given by the petitioner, the form is filled in. He has also submitted the copy of application form

filled in by the petitioner. We had asked the learned counsel to submit application submitted by the petitioner. The respondent No. 4 submits that, said record now is not available. In absence of any record it would be unsafe to rely on the contentions of the parties. It is stated that, the posts of Anshakalin category are not filled in. There are seven posts available. It is stated that, same are to be filled in subsequently from O.B.C. category. The same was the position in respect of O.B.C. sportsman category.

5. Considering the fact that, there is nothing on record to conclude that the petitioner had really represented that he belongs to P.A.P. or Anshakalin employee category and that the post of Anshakalin and sports category were subsequently decided to be filled in from O.B.C. category, we direct the respondents to consider the candidature of the petitioner from O.B.C. category on the vacant post that would be available, however, we make it clear that, the candidates who are already appointed shall not be disturbed. The candidature of the petitioner shall be considered only if there is some vacancy available from O.B.C. category for the post of Majur (Labourer). The writ petition is disposed of. No costs.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]