

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2117 OF 2017

Prabha Panditrao More

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Rahul O. Awasarmol, Advocate for Petitioner.

Mrs. A. V. Gondhalekar, Addl. G. P. for Respondent Nos. 1 and 2.

Shri Ankush N. Nagargoje, Advocate for Respondent Nos. 3 and 4.

Shri G. L. Gujar h/f Shri Bipinchandra K. Patil, Advocate for Respondent No. 5.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 5th April, 2018

PER COURT :

1. Mr. Awasarmol, learned counsel submits that pursuant to the advertisement the petitioner had applied for the post of 'Arogya Sevak' (Women) from Open Competition Category. Eight posts were meant for Open (General) category. Pursuant to the selection process the Select List and Wait List were prepared. The petitioner was at Serial No. 1 in the wait list of open

category. The learned counsel submits that respondent no. 5 was selected from N.T. - D category and her name appeared in the select list. However one Asha Yelgunde, was not issued appointment order and respondent no. 5 though belonging to N.T. - D category and her name appeared in the Select List of N.T. - D category was given appointment from Open (General) category, the same is illegal. The petitioner being at Serial No. 1 in the wait list ought to have been given appointment. The act of respondents is illegal.

2. We have heard the learned counsel for respondents also.

3. Respondent No. 5 had secured 112 marks. The last candidate in the select list of open competition category has secured 112 marks. The petitioner has secured 106 marks. The person at Serial No. 7 Asha Yelgunde was found to be ineligible. No appointment order was issued to her and respondent No. 5, as such, was considered from Open category. There is no concept as open category. It is open competition category. The person who has secured more marks irrespective of the reserved category to which he or she belongs will have to be considered in

the open competition category on the basis of merit and the marks obtained.

4. Respondent No. 5 has obtained more marks than the petitioner and was eligible to be considered from open competition category.

5. Considering the above, no illegality has been committed. The writ petition, as such, stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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