

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

WRIT PETITION NO. 2612 OF 2012

Santosh Rambhau Jadhav and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. S.S. Manale, Advocate h/f Mr. S.D. Kaldate, Advocate for petitioners.
Mr. S.K. Tambe, A.G.P. for respondents.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd OCTOBER, 2018

ORDER :

The petitioners seek appointment on Class III / Class IV posts as nominees of the freedom fighters.

2. Mr. Manale, the learned Counsel for the petitioners submits that the policy of the Government exists for appointing the nominees of the freedom fighters. Government Resolutions dated 10th January, 1985, 04th March, 1991, 24th June, 1997 and 06th August, 2004 categorically provides for appointment of nominees of the freedom fighters. The petitioners are legitimately nominated by the freedom fighters as their

nominees for getting employment in Class III and Class IV posts. The learned Counsel submits that it is to take care of the freedom fighter's, such policy has been made. The learned Counsel submits that the respondents have given appointment orders to the similarly situated freedom fighter's nominees without resorting to the selection process on 23rd July, 2014, 07th July, 2014, in December, 2015 and in May 2015. In view of that rejecting the applications of the petitioners for direct appointment on Class III and Class IV posts without following the selection process is erroneous and not in conformity with the policy of State of Maharashtra. The Government Resolution of 1991 has not been superseded and it still holds the field.

3. The learned A.G.P. submits that the nominees of the freedom fighters have to appear for the examination and compete with the other candidate. Thereafter preference is given to them as provided.

4. The Apex Court, in catena of judgments, such as ***Secretary, State of Karnataka and Ors. Vs. Umadevi and Ors. (2006) 4 SCC 1***, has held that the State cannot resort to the appointments without following due process of law. It cannot be possible for us to issue directions to the respondents to appoint the petitioners dehors the recruitment process.

The petitioners have placed on record some orders thereby appointing the freedom fighter's nominees without resorting to the selection process in the year 2014 and 2015 also. Said act of the respondents of appointing the freedom fighter's nominees without selection process would be contrary to their own affidavit in the present matter. We have observed that it would not be possible for us to issue any direction to directly appoint the petitioners as freedom fighter's nominees, however if the policy of the State exists in giving such appointment, the respondents may consider the case of the petitioners on its own merits. The decision in that regard be taken within a period of six weeks from today. Writ petition is disposed of.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

SSD