

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

Writ Petition No. 2661 of 2007

* Qaiser Khan Abdul Hamid Khan,
Age 34 years, Occupation : Nil,
R/o Nanalpeth, Near Police Station
C/o Ravi Kushan Maker Parbhani. .. **Petitioner.**

Versus

- 1) The State of Maharashtra
Through Secretary,
Education Department,
Mantralaya, Mumbai.
- 2) Chief Executive Officer,
Zilla Parishad Parbhani
in the capacity of President
Shikshan Sevak Selection
Committee, Parbhani.
- 3) Education Officer (Primary)
Zilla Parishad, Parbhani,
in the capacity of
Member Secretary,
Shikshan Sevak Selection
Committee Parbhani. .. **Respondents.**

Mrs. A.N. Ansari, Advocate, for petitioner.

Mrs. D.S. Jape, Assistant Government Pleader, for
respondent No.1.

Shri. V.V. Bhavthankar, Advocate, for respondent Nos.2
and 3.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 9 APRIL 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The petition is filed for giving direction to the respondent - Zilla Parishad to show reservation for Project Affected Persons particularly for Urdu Medium schools. By making amendment other prayers are added and direction is claimed to give appointment to the petitioner on the basis of the recruitment process started in the year 2007 after publishing the post. Both the sides are heard.

2) In the year 2006 the respondents had given first advertisement for filling posts of Shikshan Sevak and in that advertisement 4 posts were shown to be reserved for Project Affected Persons. In all 187 posts of Shikshan Sevaks were advertised and out of them 10 posts were to be filled for Urdu Medium and 177 post were to be filled for Marathi Medium. There was no separate reservation shown for the category of Project Affected Persons for Urdu Medium and 4 posts were shown to be reserved out of total posts 187 posts. It is the grievance of the

petitioner that separate reservation ought to have been shown for the Urdu Medium but that was not done. It is contended that in the past Writ Petition No.3052/2006 was filed by the petitioner due to his grievance, by order dated 2-5-2006 direction was given to the respondents to see that proper procedure with regard to such reservation is followed. It is the case of the petitioner that on 6-2-2007 he was interviewed as per the direction given by this Court but no result of the interview was informed to him. Such directions were given in Contempt Petition No.108/2006 and the petition was filed on the basis of the order made in the aforesaid writ petition. It is contended that before making any appointment on the basis of interview dated 6-2-2007, respondents published one more advertisement on 19-3-2007 and on that occasion 62 posts were advertised for Marathi Medium and 7 posts were advertised for Urdu Medium. It is contended that in this advertisement also no separate reservation was shown for Urdu Medium and not a single candidate of Urdu Medium is appointed from Project Affected Person category. It is contended that when as per the State policy, 5% reservation is kept for Project Affected Person, it was

necessary for the respondents to see that as against 10 posts which were published in the past, in the year 2006, some reservation was given separately for Urdu Medium. It is contended that though reservation could have been given to the extent of 0.5%, by rounding up one post could have been published for this category as in the past not a single post from Project Affected Person was filled in Urdu Medium school.

3) The submissions made show that there is substance in the contentions made by the petitioner that not a single post from Urdu Medium is filled from the category of Project Affected Person. Though this circumstance is there, careful perusal of both the advertisements shows that no separate reservation was shown for Urdu Medium for Project Affected Persons. In the advertisement of the year 2006, 4 posts were reserved for Project Affected Persons but they were on the basis of total post of 187 advertised by the respondents. The submission made and the record show that as against those 4 reserved posts, 4 candidates like Santosh Shinde, Rameshwar Swami, Nandkishore Susar and Dadarao

Khillare were appointed. Shinde had secured 870 marks on the basis of criteria prepared and the candidate Khillare had secured 729 marks. In that process the petitioner secured 646 marks. Thus the petitioner had participated in the said process and the candidates who had secured more marks got selected. But the four posts which were reserved for Project Affected Persons were filled as per the advertisement of the year 2006. The petitioner participated in the process, he did not challenge the advertisement of the year 2006 of the aforesaid nature and so he cannot say that the entire process was wrong or illegal.

4) The advertisement published in the year 2007 shows that separate seven posts for Urdu Medium were shown. Vertical reservation was shown and horizontal reservation only for woman was shown. The petitioner participated in that process also. He could not be selected on the basis of criteria prepared for selection. This time also he came to the Court only after publishing of the advertisement. In view of these circumstances he cannot contend that the said advertisement was illegal. Further,

only 7 posts were published for Urdu Medium and as per percentage of reservation, this time 0.35 post would have become available and so reservation was not possible. Thus, there are no merits in the proceeding. This Court holds that interference is not possible though respondents are to see that in future such reservation is shown. In the result, the petition stands dismissed. Rule stands discharged.

Sd/-
(K.L. WADANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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