

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

WRIT PETITION NO. 4241 OF 2016

Atul Namdeorao Gadhe.

Petitioner.

Versus

State of Maharashtra and others.

Respondents.

Mr. C.K. Shinde, Advocate for the petitioner.

Mr. K.N. Lokhande, A.G.P. for the State/respondent Nos.1 to 3.

Mr. A.S. Kale, Advocate for respondent Nos.4 and 5.

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

Dated : 2nd August , 2018.

FINAL ORDER :-

. Mr. Shinde, the learned Counsel for the petitioner submits that the petitioner was initially appointed in the year 2006 on year to year basis. Thereafter in the year 2008 he was appointed on probation. The approval was not granted on the ground that the petitioner is appointed as against the seat meant for Scheduled Tribe category. The approval was granted from year to year from 2008 though the appointment was on probation. The learned Counsel submits that every time advertisement was issued, but the candidate

from Scheduled Tribe category was not available. The petitioner is officiating the duties from the year 2006. The approval should have been granted from the initial date of appointment.

2. The learned Additional Government Pleader submits that the post is meant for Scheduled Tribe category. It was incumbent upon the Institution to appoint the candidate from the Scheduled Tribe category. Considering the order passed by this Court, the Authority has granted approval from the date of the order of this Court. The vacancy of Scheduled Tribe category still exists. The order has been rightly passed by the Officer.

3. We have considered the submissions.

4. It is a matter of record that the petitioner was appointed initially in the year 2006 and the approval was granted on yearly basis. In the year 2008, the petitioner was appointed on probation, however, the approval was granted on yearly basis every time. It is also a matter of record that the post is meant for Scheduled Tribe category. As the approval was not being granted, the petitioner approached this Court by filing Writ Petition No. 8188 of 2013. The same is disposed of under the orders of this Court dated 17.12.2014.

5. This Court, while disposing of the Writ Petition No.8188 of 2013 filed by the petitioner, had observed that though every time the advertisement was given, the candidate from Scheduled Tribe

category was not available. Even otherwise, after five years, inspite of giving advertisement, the candidate of Scheduled Tribe Category was not available, the said post would go to the candidate from the other category. Every year the advertisement was issued, but the candidate from the said Category was not available. The said aspect was considered by this Court and this Court had directed the respondent- Joint Director of Secondary Education to consider the proposal seeking approval to the appointment of the petitioner.

6. It is not disputed that the petitioner is working since year 2006. But it appears that advertisement has been given in the year 2008 and as the candidate of ST category was not available, the petitioner was appointed on probation in the year 2008 and is continuously officiating the duties.

7. In light of that, we direct the Respondent No.2 to grant approval to the appointment of the petitioner from 26.08.2008. The same shall be done expeditiously and preferably within two months.

8. Writ Petition is accordingly disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/