

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8360 OF 2016

Jyoti D/o Nandkumar Shende

Age; 25 years, Occu: Nil,

R/o At Sheri (Bk), Post Kada,

Tq. Ashti, District: Beed

Petitioner

Versus

1 The Chief Executive Officer,
Zilla Parishad, Ahmednagar,
District Ahmednagar

2 The Deputy Chief Executive Officer
(General) & Secretary of District
Selection Committee,
Zilla Parishad, Ahmednagar

3 District Collector & President,
of District Selection Committee,
for Appointment of ANM (Peon)
Ahmednagar.

Respondents

Mr.S.R. Choukidar h/f Mr. D.R. Kale advocate for the petitioner
Mr. S.T. Shelke, advocate for respondent Nos.1 and 2.
Mr.S.S.Dande, Assistant Govt. Pleader for Respondent No.3

CORAM : **R.M. BORDE & K.K. SONAWANE, JJ.**
(Date: March 5th, 2018)

Oral Judgment:-

(Per: R.M. Borde, J)

1 Leave to add the Collector as party-respondent is granted. Amendment be carried out forthwith.

2 Assistant Government Pleader appears on behalf of the Collector.

3 Heard.

4 Rule. With the consent of the parties, petition is taken-up for final disposal at admission stage.

5 The petitioner participated in the process of selection and appointment to the post of A.N.M. (Arogya Sevika) in furtherance of the advertisement issued by the respondent on 28.10.2015. The petitioner claims to belong to Other Backward Class (OBC) category. In view of clause 9 of the advertisement, it was necessary for a candidate participating in the process to submit a non-creamy-layer certificate valid as on 31.3.2015. It is the contention of the petitioner that in the process of selection, the petitioner secured 110 marks and was listed at Sr.No.1 in the list of selected candidates. It is further revealed that three

candidates secured 110 marks which are highest amongst all the candidates participated and the petitioner is one amongst them. The petitioner appeared before the authorities for verification of documents on 29.1.2016. The petitioner tendered the non-creamy-layer certificate. However, since it was noticed that it was valid anterior to the prescribed date, the same was not accepted. The petitioner applied for issuance of another non-creamy-layer certificate for further period commencing from 2015-2016 which was issued to her on 25.1.2016. The certificate issued to the petitioner by the Sub Divisional Officer is valid up-to 31.3.2018. The petitioner contends that she complied with all the substantial conditions laid down in the advertisement. She belongs to OBC category and does form a part of non-creamy layer group. The certificate issued to her on 25.1.2016 which was produced on the date of verification of the documents, was not accepted as valid for the reason that the same is not issued in terms of condition No.9 i.e. valid as on 31.3.2015.

6 The objection raised appears to be devoid of substance and even otherwise too technical. The non-creamy layer certificate issued to the petitioner is valid from 2015-2016 and its validity is prescribed up to 31.3.2018. The non-creamy layer certificate is valid as on today also. The petitioner, as has been recorded

above, does fulfill the conditions of qualification & eligibility and was also found successful in the process of selection and in fact has secured highest number of marks amongst all the candidates and is listed at Sr.No.1. In these circumstances, denial of the claim of the petitioner on some technical grounds would not be permissible. This Court, while directing issuance of notices to respondents, had instructed to keep one post of A.N.M. (Arogya Sevika) vacant. The interim relief granted on 2.8.2016 has been continued from time to time till this date. In the circumstances, while allowing the petition, we direct the respondents to issue a letter of appointment to the petitioner, appointing her to the post of A.N.M. (Arogya Sevika) in furtherance of her selection in the process initiated in pursuance of the advertisement dated 28.10.2015. The letter of appointment shall be issued as expeditiously as possible and preferably within a period of six weeks from today.

7 Rule is accordingly made absolute.

8 There shall be no order as to costs.

(K.K. SONAWANE, J.)

(R.M. BORDE, J.)