

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

WRIT PETITION NO. 11720 OF 2018

**VISHWANATH UTTAM CHAUDHARI
VERSUS
THE PRINCIPAL SECRETARY AND ANOTHER**

Mr.A.S.Shelke, Advocate for petitioner

Mrs.M.A.Deshpande, Addl. G.P. for respondent no.1

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.
DATE : OCTOBER 23, 2018**

PER COURT

Mr.Shelke, learned Advocate for the petitioner, submits that an advertisement was issued in March, 2018 for the posts of Agriculture Officer and Deputy Director of Agriculture. In that advertisement, no post was shown reserved for S.T. Category. Subsequently, a declaration was issued on 07.07.2018, showing one post of Deputy Director of Agriculture, four posts of Taluka Agriculture Officer and twenty one posts of Agricultural Officer, reserved for S.T.

Category. Prior to the declaration, a preliminary examination was held and the candidates, who cleared that examination, were declared eligible for final examination. Initially, as no post was reserved for S.T. Category, the petitioner did not apply pursuant to the advertisement. After the declaration was issued, the petitioner challenged the same before the Maharashtra Administrative Tribunal by filing Original Application No.519 of 2018. The Tribunal stayed the declaration dated 07.07.2018. However, instead of taking corrective measures, the M.P.S.C. violated the interim order passed by the Tribunal and went further by holding final examination. Subsequently, the interim order was modified by the Tribunal by passing the order that the appointments would be subject to the decision in the said Original Application. The learned Advocate for the petitioner submits that the results of the final examination are not yet declared. If the posts are filled-in, further complications would arise. It is not the case that

initially, the advertised posts were shown available for S.T. Category and subsequently, the posts are increased. As the post was not shown for S.T. Category, the petitioner did not apply pursuant to the advertisement.

2. The learned Addl. G.P. submits that Clauses 4.1 and 4.2 in the advertisement specifically recite that the reservations are bound to change or increase. She submits that 323 persons from S.T. Category have qualified in the preliminary examination. There was no impediment for the petitioner to apply pursuant to the advertisement.

3. Perused the documents placed on record. As the results of the final examination are not declared and the matter is kept before the Tribunal on 30.10.2018, it would be appropriate for the Tribunal to decide the O.A. on merits, after considering the rival claims of the parties.

4. The respondents shall file their affidavit by the next date before the Tribunal. The interim order modified by the Tribunal and assailed before this Court in this petition, is modified to the extent, that the respondents may proceed with the declaration of the results and finalise the list of the candidates. However, the respondents shall not issue appointment order, until further order by the Tribunal.

5. With these observations, the Writ Petition stands disposed of.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

kbp