

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

WRIT PETITION NO. 11581 OF 2016

Kalpana Sakharam Bachkar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sandesh R. Patil, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 and 2.

Shri Shivaji T. Shelke, Advocate for Respondent Nos. 3 to 5.

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

DATE : 13TH AUGUST, 2018.

FINAL ORDER :

. Mr. Patil, the learned advocate for the petitioner submits that, one post was meant for N.T.-C (Female) category. One Bansod is appointed from Open (Female) category. The petitioner was kept in the wait list of Open (Female) Category, though she had applied from N.T.-C (Female) category. One candidate above the petitioner namely Miss Manisha Bhanudas Pacharne was ineligible, as she did not submit non creamy layer certificate. In view of that the petitioner ought to have been given appointment.

2. Mr. Shelke, the learned advocate for the respondent/Zilla

Parishad submits that, in fact, Miss. Bansod was from N.T.-C category, however, she was appointed in Open (Female) category and she was also kept in Open (Female) category wait list. Said list was operated. The learned counsel submits that, one Manisha Bhanudas Pacharne was also from N.T.-C (Female) category and she is above the petitioner. The learned counsel on instructions further submits that, now the position of vacancy is communicated to the Government and instructions are sought and Government would initiate the process to fill in the vacant posts.

3. It is not disputed that, one post of N.T.-C category was not filled in and the same is kept vacant. The petitioner had applied from N.T.-C (Female) category. On affidavit it has been stated by the respondent Nos. 2 to 5/Zilla Parishad that one Ms. Mangal Bhanudas Pacharne cannot be considered for appointment as she is ineligible having not submitted non creamy layer certificate, then in that case the petitioner was next in the list and should have been considered for appointment from N.T.-C (Female) category. It appears that, the petitioner was wrongly kept in the wait list of open (female) category candidates. It is not fault of the petitioner for having kept in the wait list of open (female) category, though she had applied from N.T.-C (Female) category for the post of Arogya Sevak (Woman).

4. The petition is pending since the year 2016. The pendency of petition shall not inure as disadvantage to the petitioner. It is submitted that, one post of N.T.-C (Female) category pursuant to the advertisement in question was not filled in. In view of that, it would be appropriate to direct the respondents to consider the petitioner for appointment from N.T.-C (Female) category.

5. The respondent Nos. 2 to 5/Zilla Parishad shall consider to appoint the petitioner from N.T.-C (Female) category, in case the petitioner is otherwise eligible to be appointed. The same shall be done expeditiously and preferably within a period of six (06) weeks from today. The writ petition is disposed of.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 18

Bhalchandra
Sudhakar
Bodke
Digitally signed
by Bhalchandra
Sudhakar
Bodke
Date:
2018.08.16
11:52:20 +0530