

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12735 OF 2016

Pawan Subhash Khaire

.. **Petitioner**

Versus

Maharashtra State Electricity
Distribution Co. Ltd. and others.. **Respondents**

Mr. Ajit M. Gholap, Advocate for the Petitioner.
Mr. Anil S. Bajaj, Advocate for Respondent No. 1.
Mr. S. B. Pulkundwar, A.G.P. for Respondent No. 2.

CORAM: S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.

DATE: 29th October, 2018

PER COURT :

1. Mr. Gholap, learned counsel for the petitioner submits that pursuant to the Advertisement No. MSEDCL – 3/2015, issued by respondent no. 1 the petitioner applied for the post of Assistant Engineer (DIST). Thirty three posts were shown to have been reserved for S.C. candidates and seventy two posts were shown to have been reserved for S.T. Candidates. However as

per the select list 77 candidates are shown to have been selected.

2. The learned counsel for the petitioner further submits that total 826 candidates were shown to have been selected from all categories as against 565 posts advertised. According to the learned counsel, 262 additional posts were sought to be filled in without advertising. Out of 565 posts, 72 posts ought to have been reserved for S.C. Candidates. However, as per the advertisement only 33 posts are shown for S.C. candidates.

3. The learned counsel for the petitioner further submits that the selection process had been conducted in deviation of the advertisement. None of the candidates in the waiting list are selected or issued with the appointment orders. The learned counsel submits that not a single candidate from S.C. category is selected in the fresh select list out of the wait list prepared by the respondent. The affidavit filed by the

respondent is not clear. According to the learned counsel, the respondent be directed to issue appointment order to the petitioner.

4. Mr. Bajaj, learned counsel for respondent no. 1 submits that the last candidate selected from S.C. category has secured 55.47 marks. The petitioner has secured 54.01 marks. The petitioner is at Serial No. 16 in the wait list. According to the learned counsel, the petitioner does not stand in the merit.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. The advertisement states about the vacancies and reservation for various categories are provisional and likely to change. According to the respondent, the number of posts were changed including the reservation. The petitioner has secured 54.01 marks. Thirty candidates from the S.C. category are kept in the wait list. The petitioner is at serial no. 16. The petitioner has

applied from the vertical reservation. The case of the petitioner cannot be considered for horizontal reservation in S.C. category. The last candidate selected from S.C. category (Vertical Reservation) has secured 55.47 marks. The petitioner certainly is lower in merit than the last candidate selected from S.C. category (Vertical Reservation). As far as persons selected in horizontal reservation is concerned, the same would not be relevant as the petitioner is not competing with persons in horizontal reservation.

7. Considering the above, as the petitioner does not stand in merit having secured less marks than the last person selected in S.C. category (Vertical Reservation), the case of the petitioner cannot be considered.

8. The writ petition, as such, is disposed of.
No costs.

[R. G. AVACHAT, J.] [S. V. GANGAPURWALA, J.]
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