

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9179 OF 2018

Jitendra Madhukar Chaugule : Petitioner.
Versus
State of Maharashtra
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai and ors. : Respondents.

Mr. R K Mendadkar for the Petitioner.
Mr. B V Samant, AGP, for the Respondent/State.

**CORAM : R. M. SAVANT &
K. K. SONAWANE, JJ.**
DATE : 20th AUGUST 2018

P.C.

1 The above Writ Petition has been filed seeking quashing and setting aside of the order of termination dated 11/07/2018 (wrongly mentioned as 04/07/2018 in the prayer clause of the above Writ Petition) passed by the Respondent No.2. By the said order the Petitioner's appointment as a Furnace Operator on the establishment of the Medical Officer K/West Ward of Municipal Corporation for Greater Mumbai (MCGM) came to be terminated. The said termination was on the ground that the Petitioner has not submitted his caste validity certificate as belonging to Other Backward Class (OBC) within six months of his appointment. The Petitioner was appointed as a Furnace Operator on the establishment of the Medical Officer, K/West Ward by order dated 06/11/2017. The said appointment was inter-alia on the terms and conditions mentioned in the said order. Amongst the conditions

mentioned was the condition stipulated by clause (7) viz. that the Petitioner would have to produce his caste validity certificate within six months of his appointment.

2 At this stage it is required to be noted that the State Government by a Resolution dated 05/10/2016 notified the caste "Gabit" as a Special Backward Class i.e. SBC. Hence the said Resolution was issued by the State Government much prior in point of time than the Petitioner's appointment which as indicated above was made on 06/11/2017. The Petitioner admittedly belongs to caste "Gabit" which has been classified by the Resolution dated 05/10/2006 as a Special Backward Class (SBC). The Petitioner after his appointment applied for the caste validity certificate and was issued caste validity certificate by the Caste Scrutiny Committee as belonging to the SBC which certificate is dated 20/06/2018. Hence admittedly the Petitioner does not belong to OBC which was the caste for which the post was meant for and on which the Petitioner was appointed. The caste validity certificate though produced by the Petitioner belatedly also does not satisfy the requirements of clause (7) of his appointment order as the case certificate issued to the Petitioner is of belonging to Special Backward Class (SBC) and not Other Backward Class (OBC).

3 The learned counsel for the Petitioner Shri R K Mendadkar sought

to base the Petitioner's case on the fact that the Petitioner had a caste certificate of belonging to "Gabit" which was at one time was classified as OBC that is prior to the Resolution dated 05/10/2006 and the Petitioner having continued as such since the year 2017, could not have been terminated.

4 We are not in a position to accept the said contention of the Petitioner. The Petitioner undoubtedly has a certificate as belonging to caste "Gabit" but as indicated above the said caste "Gabit" has been classified as Special Backward Class (SBC) on 05/10/2006, as result of which the Petitioner when applied for his caste validity certificate has been issued his caste validity certificate as belonging to SBC. The Petitioner's appointment to the post meant for the OBC therefore cannot be sustained. In our view, therefore, the Petitioner cannot be allowed to continue in the post which is meant for the OBC so as to deprive a genuine OBC candidate of the said post.

5 In that view of the matter, no relief can be granted to the Petitioner. The above Writ Petition is accordingly dismissed.

[K. K. SONAWANE, J]

[R.M.SAVANT, J]