

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 1474 OF 2014

Mrs. Ripple w/o. Ravindra Patel,
Age 34 years, Occu. Service,
R/o. Aurangabad, Tq. & Dist.
Aurangabad.

....Petitioner.

Versus

The State of Maharashtra
(Through its Secretary
Education Department,)
Mantralaya, Mumbai) and Ors.

....Respondents.

Mr. V.D. Patnurkar, Advocate for petitioner.

Mr. P.N. Kutti, AGP for respondent No. 1/State.

Mr. D.M. Mane, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

DATED : 04/02/2019

ORDER :

1. The petition is filed for giving direction to respondent No. 2 Dr. Babasaheb Ambedkar Marathwada University to fill the post of Typist (Russian language) by appointing petitioner on the said post. Both the sides are heard.

2. The submissions made show that advertisement was published by the University in the year 2004 for filling the post of Typist (Russian language) and the post was shown to be reserved for scheduled tribe. It is the contention of the petitioner that as no

candidate was available from reserved category, she was appointed through the contractor on contract basis on this post. She has no order of appointment and submissions made show that outsourcing was done and the contractor engaged by the University had used the services of the petitioner. It is her case that the first advertisement was issued on 12.2.2003 for the said post and so, it was open to University to fill the post by appointing open category candidate by presuming that reserved category candidate was not available. It is contended that to save the money, the University did not fill the permanent post and they engaged contractor to get the work done on outsourcing basis. It is her contention that she has discharged the duty in University of that post and she did the duty of data entry operator also. It is contended that the immediate superiors were happy with her work and they had recommended to consider her for giving aforesaid permanent post, but such post is not given. The submissions made show that the said post itself came to be abolished.

3. The learned counsel for petitioner placed reliance on the decision of this Court given at Nagpur Bench in **Writ Petition No.2216/2006 decided on 3.12.2008 (Court on its own motion Vs. State of Maharashtra through its Secretary and Ors.)**. In that case, the direction was given to the University to fill the vacant

post after following the proper procedure. The order was made to ensure that post of teachers and Principal were filled in both aided and unaided colleges. This was general direction and it can be seen that the appointment could have been given only on the post available and as per the policy of the State Government which is in place with regard to reservation policy.

4. In the present matter, admittedly the petitioner was never appointed by University and one contractor was given work of aforesaid nature by way of outsourcing. This single circumstance is sufficient for dismissal of the petition. Further, there is policy of the State Government with regard to reservation and when the post is reserved, continuous attempts need to be made by giving advertisements to see that person of the reserved category is appointed and if such person is not available, the post can be transferred with other reserved category. This procedure is mandatory and person like open category candidate cannot get appointment on such reserved post. Present petitioner is attempting to get backdoor entry by using aforesaid circumstances and so, such proceeding cannot be allowed. In the result, the petition stands dismissed.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/