

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

102 WRIT PETITION NO.3215 OF 2018

BHARAT BHAUSAHEB NANNAVARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Tambe Rahul A.
AGP for Respondent No. 1 : Mr. K.B. Jadhavar.
Advocate for Respondent No. 2 : Mr. Navandar Manish N.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 13/08/2019

PER COURT :

1 Mr. Tambe, the learned counsel for the petitioner submits that the respondent No. 2 failed to prepare the wait list for filling the posts of labourer (Majdoor). If the wait list would have been prepared, the names of the petitioners would have found place in the wait list. There are vacant posts available. It is only for the post of Majdoor, the wait list has not been prepared. For other posts the wait lists were prepared. Even the appointment orders are issued to those persons from the wait list in November 2017. The respondents only on the ground of delay cannot take away the right of the petitioners. The learned counsel submits that the respondents are discriminating and their action is violative of Article 14 of the Constitution of India. The

respondents are treating the post of Majdoor differently. The respondent No. 2 has prepared wait list for other post and not for the post of Majdoor.

2. Mr. Navandar, learned counsel for respondent No. 2 submits that the advertisement was issued in the year 2011. The select list was published in April 2015. However, the wait list for the post of Majdoor was not prepared. It was decided to close the selection process for the post of Majdoor. The petitioners do not have a vested right.

3. It is trite that even getting the name in the select list does not give a right to claim appointment. In the present case the name of the petitioners were not even in the select list. The petitioners' grievance is that if the wait list would have been prepared, the petitioners name would have found place in wait list and they could have been given appointment on vacant posts.

4. It has been stated on affidavit by the respondent No.2 that in the meeting dated 23.08.2017 of the Selection Committee, the decision was taken that the recruitment process for filling the post of Majdoor is complete. Initially, after the select list was prepared there was ban imposed by the State Government on 12.05.2015 for filling in all the posts. In the Selection Committee meeting dated 18.10.2016

permission was given to fill in 24 posts on the wait list, to them the appointment orders have been given. The wait list for Majdoor could not be prepared. The revised merit list was required to be prepared. As all the petitioners have got less marks, than the persons in the select list, the petitioners name did not find place in the select list.

5. The petitioners have not alleged malafides against the respondents. The selection process is of the year 2011. The petitioners will have an opportunity to participate in the fresh selection process for the post of Majdoor as and when it would be initiated. The petitioners do not have a vested right, their names did not appear in the select list also. Only on the ground that the petitioners name would have found in the wait list, if the wait list would have been prepared by the respondents, would not give any right in favour of petitioners.

6 The contentions that the name of the petitioner Nos. 4 and 5 initially appeared in the select list would be of no avail because the select list was revised and the last candidate in the select list secured 48 marks and the petitioners No. 4 and 5 have secured 47 and 46 marks respectively.

7. It is also the contention that the select list was not prepared for the number of post advertised. The select list was prepared as per the selection committee decision undertaken by the Selection Committee.

8. In view of that, the writ petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

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