

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

**WRIT PETITION No.3020 of 2014**

Uddhav S/o Namdeorao Chavan. .. **Petitioner.**

**Versus**

The State of Maharashtra  
And Others. .. **Respondents.**

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Shri. S.S. Thombre, Advocate, for petitioner.

Shri. S.P. Tiwari, Assistant Government Pleader, for  
respondent Nos.1 and 2.

Shri. S.S. Tope, Advocate, for respondent No.3.  
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**Coram: T.V. NALAWADE &  
SUNIL K. KOTWAL, JJ.**

**Date: 8 MARCH 2019**

**ORDER:**

1) The petition is filed for giving direction to the respondents to give appointment to the petitioner on the post which was advertised by the respondents from general category. Both the sides are heard.

2) The submissions made show that the District Selection Board of Jalna had advertised 12 posts of Gram

Sevak on contract basis from Ex-servicemen category. The petitioner had applied for the said post. He had applied from general category and he was not ex-serviceman. However, he was allowed to appear for written test. It is contended that he was successful candidate from open category but he was not appointed. It is contended that though there was the condition as per Government Circular dated 16th April 1981 to the effect that if candidates from the ex-servicemen category are not available, the posts are not to be released to general category candidates unless and until certificate of non availability of candidates from ex-servicemen category is obtained from the institutions like Employment Exchange, Zilla Sainik Board, Regional Selection Board or the Maharashtra Public Service Commission, such certificate ought to have been obtained subsequently and these posts ought to have been filled in from general category candidates like the petitioner. It is contended that, he was not given appointment so direction needs to be given to the respondents.

3) Respondent No.2 has filed affidavit-in-reply and has contended that the proposal of the present petitioner was forwarded to the concerned department of the Government but the wait list prepared lapsed and it was also informed that the candidates who were selected in the year 2012 cannot be considered for appointment in the year 2013.

4) The aforesaid is not the only point involved in the present matter. This Court has carefully gone through the advertisement. The advertisement was not for open category candidates and all the posts which were to be filled were to be filled from ex-servicemen and those posts were divided amongst the socially backward classes. Thus, the advertisement was not for open category candidates and so the application of the petitioner could not have been considered. Consideration of the application would have been against Articles 14,16 and 309 of the Constitution of India.

5) Learned counsel for the petitioner placed reliance on following reported cases :-

- (i) *(1995) 5 SCC 173 (Anil Kumar Gupta v. State of U.P.).*
- (ii) *(1995) 2 SCC 745 (R.K. Sabharwal v. State of Punjab).*
- (iii) *(2007) 8 SCC 785 (Rajesh Kumar Daria v. Rajasthan Public Service Commission).*
- (iv) *MANU/SC/2175/1995 (Swati Gupta v. State of U.P.).*
- (v) *WP No.4102/2016 (Mohd. Akif Abrar v. The State of Maharashtra) with connected matters (Aurangabad Bench) decided on 11-9-2017.*

6) In view of the facts of the present matter quoted above, there is no need to consider the guidelines given by the Apex Court in the aforesaid cases and they cannot be applied in favour of the petitioner. In the result, the petition stands dismissed.

Sd/-  
**(SUNIL K. KOTWAL, J.)**

Sd/-  
**(T.V. NALAWADE, J.)**

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