

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

WRIT PETITION NO. 7151 OF 2018

Sangita w/o. Ramakant Chati Petitioner

Versus

The State of Maharashtra & Ors. Respondents

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Shri. Mrigesh D. Narwadkar, Advocate for the petitioner

Shri. P. S. Patil, AGP for respondent/State

Shri. V. P. Latange, Advocate for respondent No. 3

.....

AND

CIVIL APPLICATION NO. 2165 OF 2019

IN

WRIT PETITION NO. 7151 OF 2018

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 04TH FEBRUARY, 2019

ORAL ORDER:

1. Mr Narwadkar, the learned counsel for the petitioner submits that, the petitioner has been reinstated in service by the respondents. As such, the grievance with regard to the order of termination does not remain.

2. Mr Narwadkar, the learned counsel submits that, respondents No. 1 & 3 be directed to de-reserve the post of Asst.

Professor (Music) that is reserved for SC/ST category (Female). Learned counsel submits that, six times the advertisement was issued, however, the candidate was not received from SC or ST category. The last advertisement was issued in the year 2006.

3. Mr P. S. Patil, the learned Assistant Government Pleader submits that, if the candidate from SC or ST is not available, the post will go to the other reserved category.

4. In case, the advertisement has been issued for five or more times and the candidate from that category is not available, the post reserved for that category would lapse.

5. It is contended that, the petitioner is working since the year 2000 as against the post reserved for ST category. According to the petitioner, for six years the advertisement was issued, however, no candidate either from ST or SC category was received.

6. In case the petitioner is working since the year 2000 and for six years the advertisement was issued to fill in the post of Assistant Professor (Music) from ST or SC category and no candidate is received, then the case of the petitioner can be considered as

against the said post on regular basis from the date the last advertisement after completion of five years is issued.

7. In case the institution has issued advertisement for six years to fill in the post of Assistant Professor (Music) of SC or ST category and the Institution has not received any candidate to fill in the post of Assistant Professor (Music) from SC/ST category, then the respondents shall consider the case of the petitioner for the said post as if the said post would stand de-reserved. Of course the same would be after the authority is satisfied that for five or more years the advertisement was issued by the Institution for filling in the post of Assistant Professor (Music) from ST/SC category.

8. It is submitted that, the proposal is already submitted for approval to the Joint Director, Higher Education (Page 70) after removing all the deficiencies. In case the said proposal is pending with the Joint Director of Higher Education, the same shall be considered on its own merits considering the observations made above, expeditiously, preferably within three months. The Institution may submit salary bills depending upon the decision taken by the Joint Director of Higher Education. With regard to the proposal of approval, the Joint Director shall also take decision upon the

salary bills of the petitioner submitted by the Institution on its own merits.

9. The writ petition is accordingly disposed of. No costs.

10. In view of disposal of writ petition, nothing is left for consideration in the connected civil application and same stands disposed of.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde