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

WRIT PETITION NO.2626 OF 2016

Smt. Archana S. Ghanegaonkar and others ..Petitioners

Versus

Nilesh Subhash Jagtap and others ..Respondents

Mr. U. P. Warunjikar a/w Mr. Sumit Kate, Advocate for the
Petitioners.

Mr. Y. S. Khochare, AGP for Respondent Nos.6 to 8.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 1st MARCH, 2019

P.C.:-

1] When the matter was listed on 22/1/2019 and we expressed that we were not inclined to entertain the matter, learned Counsel for the Petitioners sought time to take instructions with regard to withdrawal of the matter. After that, the matter was adjourned twice.

2] Today, when the matter was called out, learned Counsel for the Petitioners states that in spite of notices being duly served upon the Petitioners, the Petitioners have not responded to the learned

Counsel for the Petitioners. As such, he states that he is not in a position to make any statement with regard to withdrawal of the Petition.

3] By the present Petition, Petitioners impugn the judgment and order dated 24/11/2015 passed by the Maharashtra Administrative Tribunal in Original Application No.289 of 2015 and Original Application No.620 of 2015 vide which the learned Tribunal had held that the appointments given to the Respondents therein i.e. the Petitioners herein were not given in accordance with the view taken by the learned Tribunal in its judgment dated 29/10/2015 in Original Application No.56 of 2015, which, in turn, was taken by the learned Tribunal on the basis of the Judgment of Division Bench of this Court in the case of *Kanchan Vishwanath Jagtap and Another vs. Maharashtra Administrative Tribunal and Others* reported in *2016(1) Mh.L.J. 934*. The view taken by Division Bench of this Court in *Kanchan Vishwanath Jagtap* (supra) was on the basis of the view taken by the Hon'ble Supreme Court in the case of *Indra Sawhney vs. Union of India and ors.* reported in *1992 Supp. (3) Supreme Court Cases 215*. The learned Tribunal has therefore held

that though the women candidates belong to Reserved Category but if they are entitled to be considered on the basis of their respective merit in the Open Category, they cannot be deprived the appointment merely because they do not belong to Open Category but belong to Reserved Category.

4] We therefore do not notice any perversity in the impugned order. It is pertinent to note that in the review filed by the present Petitioners, the learned Tribunal has even directed to consider the claim of the present Petitioners. In view of the subsequent orders passed by the learned Tribunal in Review Application, the Petitioners might have been accommodated and, therefore lost interest in prosecuting the Petition.

5] Petition is dismissed for non-prosecution.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)