

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.103 OF 2019**

Bajirao Sudam Pradnyavant .. Petitioner

Vs

The State of Maharashtra & Ors. .. Respondents

...

Mr. R.A. Shelke for the Petitioner.

Mr. P.P. Kakade, Government Pleader with Ms. Nisha Mehra,
A.G.P. for Respondent Nos.1 to 4.

Mr. P.K. Dhakephalkar, senior counsel i/b Mr. U.R. Mankapure for
Respondent No.5.

**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 16TH OCTOBER, 2019.

P.C:-

1. Heard learned counsel for the Petitioner.
2. The grievance in the Public Interest Litigation is not providing for any reservation contemplated by the Maharashtra State Public Services (Reservation for Scheduled Castes Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special

Backward Category and Other Backward Classes) Act, 2001. The recruitment is being effected by Respondent No.5 : The Sangli District Co-operative Bank, Sangli. On 6th March, 2019, a public notice was issued inviting applications to fill up 400 posts of Assistant Clerks.

3. The Act of 2001 defines vide clause (c) of Section 2, an 'establishment' to mean any office of the Government or of a local authority or statutory authority constituted under any Act of the State Legislature for the time being in force, or a University or a Company, a Corporation or a Co-operative Society in which share capital is held by the Government or any Government aided Institutions.

4. The Petitioner has filed along with the Public Interest Litigation, an Affidavit in Reply filed by Respondent No.5 in Public Interest Litigation (Stamp) No.22229 of 2019 in which the categorical stand of Respondent No.5 is that it had returned the share capital to the State Government in the year 2016 and thus as of today no share capital is held by the Government or a Government aided Institution in Respondent No.5.

5. Learned counsel for the Petitioner states that the posts of Assistant Clerks were not filled by the Bank since the year 2002-03. Counsel asserts that 400 posts could not have been created after the year 2016 and thus urges that the vacancies being backlog

vacancies, having occurred when the Government of Maharashtra held a share capital in Respondent No.5, mandamus as prayed needs to be issued.

6. Suffice it to state that pertaining to direct recruitment, law does not say or mandate that vacancies have to be filled up as per the law in force when the vacancies arose. This principle of law is applicable to appointment by promotion. Under the circumstances, relief as prayed for cannot be granted.

7. Public Interest Litigation is dismissed.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)