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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1696 OF 2002

Mrs. Pratibha Sanjay Yadav

... Petitioner.

V/s.

The Principal, Ramnarayan Ruia College
of Arts and Science, Mumbai and Ors.

... Respondents.

Mr. P.G. Karande for Petitioner.

Mr. Abhay Patki, AGP for the Respondents 3 & 4.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 8 JULY 2019.

P.C. :-

Heard learned Counsel for the Petitioner and
Respondent Nos. 3 and 4.

2. Case of the Petitioner is having a vacancy, Masters Degree in Biology as also a Bachelor's Degree in Education, she applied against a leave vacancy available with the 1st Respondent established by the 2nd Respondent and was given appointment for a period of one month from 8 January 1996 to 8 February 1996.

3. On 14 June 1996 the 2nd Respondent issued an advertisement inviting applications from eligible candidates to fill up a permanent post of teacher in Biology available with the 1st Respondent. The post was shown for reserved category candidate. It was stipulated in the advertisement that if no candidate in the reserved category is available, general category candidates would be considered to be appointed for one academic year. The Petitioner applied. There being no suitable candidate found in the reserved category and in the general category, the Petitioner being found to be the most meritorious she was appointment for one year. In the next 4 succeeding years, advertisements were issued in the month of June and in the 5 years in the month of July inviting applications notifying that the post was in the reserved category and that if no candidate in the reserved category was available, it would be filled from a general category. In each of the 5 subsequent years, no candidate in the reserved category being available, the Petitioner was given appointment on yearly basis for the next 5 years as well.

4. Relying upon a policy of the Government that if the reserved post is not filled up from amongst a member of the reserved category, the same should be de-reserved and the incumbent holding the post be regularized, the grievance of the Petitioner commences from the fact that the Respondent Nos. 1 and 2 did not initiate the action to de-reserve the post and make her appointment permanent.

On the contrary the post was once again advertised to be filled up in the year 2002.

5. Issuing notice in the Writ Petition on 22 July 2002, Respondent Nos. 1 and 2 were injuncted from terminating the Petitioner's service.

6. The learned Counsel for the Petitioner states that under the interim order dated 22 July 2002, the Petitioner continues to serve till date under the 2nd Respondent but as a temporary teacher.

7. Since Respondent Nos. 1 and 2 did not initiate the proposal to de-resrve the post by making a reference to the 3rd Respondent and since the said Respondents have chosen not to appear today nor to have filed a counter affidavit to the Writ Petition, we dispose of the Writ Petition directing the 3rd Respondent to treat the Writ Petition as a representation to it. The 3rd Respondent shall call for the record from the 1st and the 2nd Respondents and applying the Government Resolution dated 10 July 1996 or any other applicable Government Resolution on the subject, pass necessary orders. The decision shall be taken by Respondent No.3 within six months from today.

N.M. JAMDAR, J.

CHIEF JUSTICE