

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.755 OF 2014**

Ashwini Eknath DhavalePetitioner
vs
The Municipal Corporation of Greater Mumbai & Ors. ...Respondents

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Mr. Prashant Aher, for the Petitioner.

Mr. Kedar Dighe, AGP, for State.

Mr. V.K. Wasnik, a/w. Ms. Sheetal Metkari, for MCGM.

Mr. Prakash Charate, Deputy Education Officer, present in Court.

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CORAM : S.C. GUPTE, J.

DATED: 18 APRIL 2019

P.C.:

. This petition challenges the action on the part of the Municipal Corporation of Greater Mumbai (represented by Respondent Nos. 1 to 3) in denying appointment to the post of Trained Teacher (Shikshan Sevak) in Municipal Primary Schools through walk-in selection held on 2 July 2013. It is the grievance of the Petitioner that though she had a caste certificate to prove that she belonged to the scheduled caste, she was declared ineligible on the ground that she did not possess such certificate. In response to an instruction note issued by Respondent No.3 calling for removal of discrepancy, if any, on or before 9 August 2013, the Petitioner had refurnished attested documents, including caste certificate, to Respondent No.3 for removal of discrepancy. As noted by

this Court, in its order dated 2 September 2013, based on an earlier petition filed by the Petitioner, at that stage the Petitioner had by mistake submitted the certificate of her brother Siddant Eknath Dhavale, who had also applied to the post and who had been considered ineligible. Considering this error, this Court, on 2 September 2013, disposed of the earlier petition of the Petitioner herein directing the Municipal Corporation to consider the Petitioner's case sympathetically before publishing the final list of selected candidates. It appears that despite the directions of the Court, the Petitioner's case was not considered sympathetically by the committee and, as a result, the present petition was filed by the Petitioner. At the hearing of this petition, by its order dated 10 July 2014, this Court noted that it *prima facie* appeared that the Respondents had acted arbitrarily in the matter and granted the Petitioner leave to amend the petition by adding affected candidate/s. The Corporation was also directed to take instructions as to whether it was willing to accommodate the Petitioner in respect of any vacancy otherwise available in respect of this or any other school. The matter has been pending in this Court for quite some time thereafter. Today, when the matter is heard at some length, it transpires that the original list of appointees has not only been declared but all appointments have been duly made in pursuance thereof. Learned Counsel for the Corporation submits that as of today there is no vacancy advertised by the Municipal Corporation for appointment of trained teachers in any of its primary schools.

2. Learned Counsel, after taking instructions from Mr. Prakash Charate, Deputy Education Officer of the Corporation, who is present in

Court, states that in case any vacancy arises in future and is advertised by the Municipal Corporation, the Petitioner shall be given preference in the matter of appointment as a trained teacher subject to her fulfilling of eligibility criteria otherwise specified in the advertisement. The statement is accepted and the petition is disposed of in terms thereof.

(S.C. GUPTE, J.)