

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

WRIT PETITION NO. 4404 OF 2018

Masnaji s/o. Yashwanta Yelleboinwad .. Petitioners
Age. 30 years, Occ. Agri.,
R/o. Masalga, Post. Tembhurni,
Tq. Kandhar, Dist. Nanded.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary
Transport Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee
Aurangabad Division, Aurangabad.
Through its Member Secretary.
3. The Divisional Controller,
Maharashtra State Road
Transportation Corporation,
Nanded.
4. The Divisional Controller,
Maharashtra State Road
Transportation Corporation,
Solapur, Budhwar Peth,
Solapur.
5. Dean/Head of Department,
Department of Ophthalmology,
Grant Medical College &
Sir J.J. Group of Hospitals,
Byculla, Mumbai – 400 008.

Mr.A.N. Nagargoje, Advocate for the petitioner.
Mr.S.R. Yadav-Lonikar, AGP for the respondent/State.

**CORAM : Z.A.HAQ &
S.M.GAVHANE, JJ.**
DATED : 04.03.2020

P.C. :-

01. None appears for the respondent No. 3 - The Divisional Controller, Maharashtra State Road Transportation Corporation, Nanded and respondent No.4 - The Divisional Controller, Maharashtra State Road Transportation Corporation, Solapur, though served. Heard the learned Advocate for the petitioner and the learned AGP for the respondent Nos. 1,2 and 5.

02. Rule. Rule made returnable forthwith.

03. The petitioner has challenged the rejection of his candidature for appointment as Conductor (Junior) with the Maharashtra State Road Transport Corporation on the ground that he was suffering from colour blindness. The learned Advocate for the petitioner has pointed out

the certificate dated 4th May 2016, issued by the Board of Referees, Sir J.J. Group of Hospitals, Mumbai to the effect that the petitioner was found to be fit to perform duty of Conductor though it was found that he was suffering from partial colour blindness. The respondent Nos.3 and 4 have opted to keep out of the proceeding and have not controverted the claim made by the petitioner relying on the above referred certificate dated 4th May 2016.

04. Hence, relying on the above referred certificate issued by the competent Board, we pass the following order :-

i. It is held that the action of the respondent Nos.3 and 4 in not giving appointment to the petitioner is illegal and unsustainable. The respondent Nos.3 and 4 are directed to appoint the petitioner on the post of Conductor (Junior) with effect from 1st April 2020.

ii. The claim made by the petitioner for

seniority and monetary benefits from July 2016 is not granted. However, in lieu of it and as respondent Nos.3 and 4 have not assisted the Court in the matter, the respondent Nos.3 and 4 are directed to pay Rs.50,000/- (Rupees Fifty Thousand) to the petitioner towards costs. The amount of costs shall be paid to the petitioner within three months from today.

05. Rule is made absolute in the above terms.

[S.M.GAVHANE,J.]

[Z.A.HAQ,J.]