

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3154 OF 2020

MEGHALI MADHUKAR THAKUR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Shri Jain Rakesh Nemichandji
AGP for Respondents 1 and 2 : Shri S.R. Yadav Lonikar
Advocate for Respondent 3 : Shri N.N. Desale
...

CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 04th October, 2021

Per Court :-

1. On 30.08.2021, we had passed the following order :-

- “1. The petitioner’s claim of belonging to Thakur Scheduled Tribe has been validated by the Competent Committee vide its decision dated 20.07.2021.
2. The petitioner has challenged the advertisement dated 21.12.2019 vide which a candidate applying for a post reserved for the Scheduled Tribe Category must possess the Tribe Validity certificate on the date of application. Admittedly, the petitioner did not have such a validity on the date of his application. The last date for applying was 07.01.2020. The qualified candidates list was published on 09.01.2020. The exam admit card was to be distributed / issued on 10th and 11th January, 2020 and the written examination was scheduled on 12.01.2020. The petitioner is not a party to this selection process.

3. *The learned advocate for respondent No.3 – Selection Committee submits that the selection process has been completed and appointment orders are to be issued (yet not issued). The grievance of the petitioner is that the condition that he should be equipped with the validity certificate if he desires to apply pursuant to the impugned advertisement, is a harsh condition. This Court has not granted any interim relief to the petitioner.*
4. *We expect the respondents to enter their affidavits - in reply with proper pagination, on or before 30.09.2021. Since we are granting one month, there would be no extension of time.*
5. *List this petition on 04.10.2021.*
6. *If possible, we would hear the petition finally at admission stage.*
7. *We make it clear that we are not granting any interim relief to the petitioner since he has not been a party to the selection process and he was also not held eligible to appear for the written examination. As such, the selection, if any, would be subject to the result of this petition, only if we cause an interference in the advertisement on the ground that the condition assailed is illegal and arbitrary.”*

2. Today, the learned advocate for the petitioner submits, on instructions, that she has received her validity certificate from the competent Scrutiny Committee on 05.08.2021.

3. Admittedly, the petitioner was not eligible on 07.01.2020 which was the last date for applying for the post. List of qualified candidates was published on 09.01.2020 minus the name of the petitioner. Examination admit cards were distributed

on 10.01.2020 and 11.01.2020 and the written examination was scheduled on 12.01.2020. Admittedly, the petitioner was not party to the entire selection process. Due to the pendency of this petition, though the entire select list is ready and appointment orders are to be issued, the authorities have not issued such appointment orders.

4. The learned advocate for the petitioner vehemently submits that she can be considered even today. We are afraid, we cannot exercise our extraordinary powers to facilitate, practically, a backdoor entry for the petitioner, who was never eligible on the last date of applying, was never a party to the selection process and obviously did not face competition with all other applying candidates. Directing the respondent authorities to consider the candidature of the petitioner in such circumstances, would practically amount to the High Court granting a backdoor entry.

5. In view of the above, this Writ Petition, being devoid of merit is, therefore, dismissed.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)