

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4955 OF 2000

Mrs.Latika Bonde,
residing at A-402, Vikas Apartment,
Santoshimata Mandir Road, Kalyan (West),
District Thane 421 301.

... Petitioner.

V/s.

1. Peoples Education Society,
through its Chairman having its office
at Anand Bhavan, Dr.D.N.Road, Fort,
Mumbai 400 023.
2. The Principal,
Sidharth College of Commerce and
Economics, Anand Bhavan, D.N.Road,
Fort, Mumbai 400 023.
3. University of Mumbai,
through its Registrar, D.N.Road,
Fort, Mumbai.
4. The Director of Technical and Higher
Technical Education, Mumbai.
5. State of Maharashtra
through its Department of Higher and
Technical Education, Mantralaya Annexe,
Mumbai 400 032.

... Respondents.

None for the Petitioner.

Mr.Rui Rodrigues for Respondent No.3.

Ms.K.N.Solunke, AGP for the State.

CORAM : **NITIN JAMDAR AND
C. V. BHADANG, JJ.**

DATE : **24 March 2021.**

ORAL JUDGMENT : (Per Nitin Jamdar, J.)

Heard learned counsel for the parties.

2. By this writ petition, the Petitioner has sought a direction to de-reserve the post occupied by him and upon such de-reservation treat the Petitioner as confirmed Lecturer in Mathematical and Statistical Techniques.

3. The Petitioner is M.Phil and M.Sc. First Class in Mathematics. The Petitioner applied pursuant to an advertisement and was selected by a duly constituted selection committee. She was appointed in the college of Respondent No.1- institution as a Lecturer in Mathematical and Statistical Techniques with effect from 14 September 1991. Again in the year 2000, two posts of Lecturers in Mathematical and Statistical Techniques were advertised. One of them was reserved for Schedule Caste candidate and other was reserved for Other Backward Class. According to the Petitioner, the post was advertised on more than five occasions and it is to be de-reserved. According to the Petitioner, on 15 May 2000, the Respondent- University wrote to Respondent No.2- Principal of the College to de-reserve the post of the Petitioner. Since no further action was taken, the Petitioner filed present petition.

4. On 18 September 2000, by an interim order, the services of the Petitioner were protected. By order dated 4 April 2001, Rule was issued in the petition and the interim order was continued. The writ petition was dismissed for default on 31 August 2004 since none appeared for the Petitioner. It was restored on 24 September 2004. Again it was dismissed on 17 February 2005 and came to be restored on payment of cost on 11 September 2009. Today, when the petition is called out, none appears for the Petitioner. It is not possible to keep adjourning the petition in the light of the fact that it was twice dismissed and restored.

5. As regards the claim of the Petitioner that her post needs to be de-reserved, the Division Bench, on 16 August 2012, has passed the following order:

“Heard learned Counsel for the Petitioner, learned Counsel for 2nd Respondent and learned AGP for 4th and 5th Respondents.

2. Learned Counsel appearing for the Petitioner on the last date had invited our attention to communications issued by the University of Mumbai to the Management of Siddharth College, Bombay, the last such communication being dated 15th May, 2000. We directed the learned Counsel for 2nd Respondent to take instructions as regards the said communications. On instructions, he states that if a direction is issued by this Court, the Management will submit a proposal for de-reservation of the post held by the Petitioner.

3. Learned Counsel appearing for the Petitioner pointed out that from the letter dated 27th July, 2011 sent by 2nd Respondent to the Petitioner, it is revealed that though the

college submitted salary bill for the month of July, 2011 to the office of the Director of Technical and Higher Education, Mumbai Division, the same was not accepted. He stated that as a result of non-acceptance of the salary bill, the Petitioner has not been paid salary since July, 2011 though his employment was protected under the interim order of the Court.

4. We direct 2nd Respondent to submit a proposal for de-reservation of the post held by the Petitioner in accordance with law. The proposal shall be submitted within a period of four weeks from today.

5. The concerned Authorities shall consider the said proposal and take appropriate decision thereon within a period of six weeks from the date on which the proposal is received.

6. We direct 2nd Respondent to submit salary bills of the salary payable to the Petitioner from July, 2011 onwards to the Office of the Director of Technical and Higher Education, Mumbai Division, Mumbai. As there is an interim relief granted in this Petition protecting the employment of the Petitioner, we direct the office of the Director of Technical and Higher Education, Mumbai Division, Mumbai to accept the bills and process the same in accordance with law.

7. Concerned parties to act upon an authenticated copy of this order. The Petition shall be placed for further hearing on 29th October, 2012.”

Thereafter civil applications have been filed and affidavits of the Respondent- University and the State are taken on record. The Joint Director of Higher Education, Mumbai in the affidavit dated 28 October 2013 has stated that only after the University of Mumbai submits proposal for de-reservation of the post with all necessary

documents, it will be possible for the State to complete the process of de-reservation. The learned AGP reiterates the stand taken in the affidavit. The learned counsel for the Respondent- University submits that necessary documents have already been supplied and the decision now should be taken by the State Government. It is not possible for us to adjudicate upon whether necessary documents as sought for by the State Government are supplied by the University and the Respondent- College as this cannot be a center point of adjudication. Even if the University has submitted the documents, there is no impediment to re-submit the same so that further time in adjudication would be curtailed. It will be proper if the Joint Director informs the University and the Respondent- College the details of the documents that are required and direction is given to Respondent No.3- University and Respondent No.2- College to submit the documents within a time bound period for a reasoned decision to be taken. In the meanwhile, the protection given to the Petitioner by orders dated 18 September 2000 and 16 August 2012 can continue. In light therefore, the petition is disposed of with the following order.

- (i) The Joint Director of Higher Education, Mumbai will address a communication to the Respondent No.3- University and, if required to Respondent No.2- College within a period of six weeks giving details of the documents required;
- (ii) As informed, the Respondent Nos.1 and 2 that, if necessary, the documents which need to be annexed in the Petitioner's

case with the proposal for de-reservation will be submitted to the Respondent- University within a period of six weeks after the communication so received;

- (ii) The University will submit the proposal for de-reservation to the Respondent- State with the documents asked for within a period of six weeks thereafter;
- (iii) The Joint Director of Higher Education will take a decision in respect of de-reservation and communicate the outcome to the Petitioner, Respondent- University and the Respondent- College;
- (iv) Till such decision is communicated, the direction contained in the interim order dated 18 September 2000 and direction contained in paragraph-6 of the order dated 16 August 2012 reproduced as above to continue;
- (v) Needless to state that in case the decision is adverse to the Petitioner in respect of de-reservation, it will be open to the Petitioner to take necessary steps.

6. Writ petition and pending civil applications are disposed of accordingly. Rule is made absolute in the above terms.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)