

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9830 OF 2003

Shri Dhananjay Bhat.

Residing at 3/5, Everest House,
5, Deendayal Road, Dombivli (West)

... Petitioner.

V/s.

1. The Principal,
K.V.Pendharkar College of Arts, Science
& Commerce, Dombivli (East) 421 203.

2. The Secretary,
Dombivli Shikshan Prasarak Mandal,
Dombivli € 421 203.

3. University of Mumbai,
D.N.Road, Fort, Mumbai.

4. State of Maharashtra,
Through its Department of Higher &
Technical Education, Mantralaya Annexe,
Mumbai- 400 032.

... Respondents.

Mr.Mihir Joshi for the Petitioner.

Mr.Rui Rodrigues for Respondent No.3.

Mrs.P.N.Diwan, AGP for Respondent No.4-State.

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

DATE : 24 March 2021.

P.C. :

The Petitioner has filed this Petition for a direction to the Respondents to de-reserve the post occupied by the Petitioner and to treat him as a full time permanent Lecturer.

2. The Petitioner was appointed as full-time Lecturer in Respondent No.1 Degree College in June 1996. He was selected through a duly constituted selection committee and his appointment was approved by the Respondent- University. It is the case of the Petitioner that the post against which the Petitioner was appointed was reserved for a candidate belonging to Backward Class, no candidate was available even though the post was advertised on eight occasions. The Petitioner received an order of termination and the Petitioner filed Writ Petition No.2591/2001 seeking de-reservation. The said petition was disposed of by the Division Bench on 11 October 2001 by directing the Respondent- College to send the proposal to the University/ State Government and the matter was to be decided within a period of four months and till the decision was to be taken, the Petitioner was not to be removed from the post. Accordingly, the Petitioner wrote a letter to the Respondent- University enquiring as to whether the proposal as stated is submitted by the College. No response was received and another advertisement came to be issued on 25 December 2003 and

again the Petitioner apprehending his termination filed the present petition. An interim order was passed on 31 December 2003 directing that the services of the Petitioners not to be terminated and not to take action pursuant to the impugned advertisement. Thereafter Rule was issued on 7 June 2004.

3. Therefore, there was already one order in favour of the Petitioner far back in the year 2001 directing the Respondent-College to submit proposal as. No substantive progress has been done for last two decades. No reply has been filed. It is not placed on record whether pursuant to the order passed on 11 October 2001 the Respondent-College has submitted the proposal for de-reservation of the post. The petition cannot be adjourned any further. The appropriate course of action would be to direct the Respondent-College to submit proposal regarding de-reservation of the post held by the Petitioner and thereafter to direct the Respondent-State to take decision as per the procedure within a time-bound period.

4. Accordingly, writ petition is disposed of with the following directions:

- (i) The Respondent Nos.1 and 2 to submit a proposal to the Respondent No.3- University with all necessary particulars and documents in respect of de-reservation of the post held by the Petitioner within a period of four weeks from the date a

copy of this order is supplied to Respondent Nos.1 and 2. The Petitioner shall supply copy of this order to Respondent Nos.1 and 2;

- (ii) After the proposal is so received, the University will examine the same and as per law and procedure call for a clarification, if any and forward the same to Respondent No.4- State of Maharashtra within 8 weeks.
- (iii) Respondent No.4- State of Maharashtra shall take decision in accordance with law and communicate the same to the Petitioner and the Respondent- College within a period of 12 weeks thereafter.
- (iii) Till the decision is taken and communicated to the Petitioner, the interim order directing not to terminate the services of the Petitioner will continue.

5. Rule is made absolute in the above terms. No costs.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)