

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

**CIVIL APPLICATION (N) NO.14/2021 IN
CONTEMPT PETITION NO.249/2017 IN
WRIT PETITION NO.581/2014(D)**

Dr. Narayan s/o Pundlikrao Suryawanshi

Vs.

Shri Sumit Malik, IAS, Chief Secretary, Government of Maharashtra, General
Administration Department, Mantralaya, Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.D.Thombre, Advocate for petitioner/applicant.
Mrs. Sangeeta Jachak, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND N.B.SURYAWANSHI, JJ.
DATED :- JANUARY 29, 2021.

By this civil application the petitioner prays that the process of promotion to the post of 'Professor in Bio-chemistry' at the Government Medical College, Nagpur be stayed for the reason that the respondent no.5 in Writ Petition No. 581/2014 is sought to be promoted. It is further prayed that deemed date on the post of 'Associate Professor' be also granted to the petitioner.

In Writ Petition No.581/2014 this Court had set aside the order passed by the Maharashtra Administrative Tribunal dated 10.09.2013 and the respondent no.1 was directed to convey all adverse entries in the confidential report of the petitioner and after granting him liberty to make a representation, the respondent no.1 was directed to re-consider the claim of the petitioner. Since that was not done, the present contempt petition came to be filed.

In the reply filed on behalf of the respondent no.1 it has been stated that the Annual Confidential Reports (ACRs) of the petitioner have been upgraded. The petitioner however could not be promoted by considering him as a candidate belonging to the reserved category on the ground that in Writ Petition No.2797/2015 this Court at its Principal Seat had struck down the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis) Nomadic Tribes, Special Backward Category and Other Backward Classes) Act 2004. That judgment has now been challenged before the Hon'ble Apex Court and in view thereof promotion cannot be offered to the petitioner at this stage. Noting this fact, the contempt petition was admitted on 17.04.2018.

We find that the prayer made in the Civil Application No.14/2021 gives a separate cause of action to the petitioner for being agitated in appropriate proceedings. This prayer cannot be considered in contempt jurisdiction. Hence with liberty to the petitioner to initiate proceedings for seeking the relief as prayed for in the civil application, the civil application is disposed of.

JUDGE

JUDGE

Andurkar..