

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

WRIT PETITION NO. 6335 OF 2018

Avinash Balaji Ghodke

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Anand V. Indrale Patil, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 3.

The Respondent Nos. 4 and 5 are served.

**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 07TH MARCH, 2022.

FINAL ORDER :

. The proposal seeking approval to the appointment of the petitioner as Lab Assistant is rejected. Said proposal is rejected basically on two grounds (i) prior permission before issuing advertisement is not obtained and (ii) surplus candidates are available.

2. The petitioner claims to have been appointed from the Scheduled Caste category. The application is said to have been given for filling in the post on 10.03.2012 and on not receiving response from the authorities, advertisement is issued on 09.06.2012. The petitioner came to be appointed on 21.06.2012.

3. It is not disputed that as per the roster post was meant for

S.C. category. The management sought permission for filing in the post by giving an application on 10th March, 2012 to the authorities. The aspect of giving application by the management is not disputed by the authorities. It does not appear from the affidavit, surplus candidates were sent to the institute and institute failed to absorb them. The reliance is placed upon the Government Resolution dated 16th October, 2012. The appointment of the petitioner is prior to the said Government.

4. According to the learned Assistant Government Pleader, the petitioner has alternate remedy of appeal.

5. The matter is pending since the year 2018. Affidavits have been filed.

6. The Government Resolution of October 2012 would not apply as the appointment of the petitioner is prior to said Government Resolution. Another reason is that permission prior to issuance of advertisement would also not be tenable as the institute had given application, but for three months no response was received and, thereafter, advertisement was issued.

7. In the light of the above, the impugned order is quashed and set aside. The authority shall reconsider the proposal for grant of approval to the appointment of the petitioner as Lab Assistant afresh and shall decide the same on its own merits, in accordance with law and policy, expeditiously and preferably

within a period of four (04) months from today. The authority shall not reject the proposal on the grounds on which the impugned order was passed.

8. In the light of that, the writ petition is disposed of. No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 22