

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8735 OF 2022

CHANDRAKANT LAHU SADKE
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

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Advocate for the Petitioner : Shri P.B. Gapat h/f Shri Solanke
Shrinivas Trimbak

AGP for Respondents 1 and 2/State : Shri A.R. Kale

Advocate for Respondents 3 and 4 : Shri Shri Ajinkya Reddy

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CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.

DATE :- 22nd September, 2022

Per Court :-

1. The petitioner has put forth prayer clauses B and C,
which read as under :-

“B. To direct the respondent No.3 i.e. Zilla Parishad, Osmanabad to issue an appointment order in favour of the petitioner as Livestock Supervisor from the month of January, 2020 in Scheduled Tribe category by issuing Writ of Mandamus or any other appropriate Writ or direction as the case may be.

C. Pending hearing and final disposal of this Writ Petition the respondent No.3 may kindly be directed not to fill up the post of Livestock Supervisor reserved for Scheduled Tribe Category advertised in the selection process of 2019.”

2. We have considered the strenuous submissions of the learned advocate for the petitioner, the learned AGP on behalf of the State and the learned advocate on behalf of the Zilla Parishad. With their assistance, we have gone through the petition paper book.

3. Normally, this Court would be slow in entertaining the prayer in the nature of a direction to issue an appointment order to a petitioner, under Article 226 of the Constitution of India. It is well settled that selection does not give any right to seek an appointment. However, we find peculiar facts before us and hence, we are considering this petition.

4. On 27.12.2019, the Zilla Parishad, Osmanabad, issued an advertisement No.02/2019. This is an exhaustive advertisement and pertains to initiating the selection process for filling in several vacancies, by way of a special recruitment drive. The petitioner's case is restricted to one vacancy, for the post of Livestock Supervisor, which is reserved for the Scheduled Tribe category. After the selection process was conducted, the petitioner was placed at Sr.No.1 in the merit list. Another candidate was placed at Sr.No.1 in the wait list. There is

no dispute that the petitioner is at Sr.No.1 in the select list.

5. It is undisputed that there was some difficulty initially with regard to issuing appointment orders to the selected candidates pursuant to the advertisement No.02/2019. This is evident from paragraph No.1 of the communication dated 18.08.2021 issued by Mr.Vasant Mane, Under Secretary, Rural Development Department, State of Maharashtra, Mumbai, addressed to the Chief Executive Officers of all Zilla Parishads in the State of Maharashtra. A petition bearing Civil Appeal No.8928/2058, along with several other petitions, were pending before the Honourable Supreme Court. By order dated 06.07.2017, the Zilla Parishads were under an embargo of not appointing the candidates from the select list. All Zilla Parishads were, accordingly, intimated by the State of Maharashtra not to give effect to the said select list. Paragraph No.2 of the said communication indicates that the embargo has been lifted and the Government is granted liberty to proceed with the selection process and make appointments according to the select list. The petitioner has been selected under a special drive for filling in the posts, which are reserved for the Scheduled Tribe category. It is thus, informed by the Under Secretary that the concerned Zilla

Parishads can now proceed to make appointments as per the select list.

6. The learned advocate for the Zilla Parishad has attempted to co-relate the selection of the petitioner with one Mr.Shivaji Baburao Mankoli. It is contended that Mr.Mankoli was placed in the supernumerary category by order dated 10.01.2020 as he did not tender his validity certificate. Subsequently, this Court passed an order on 21.01.2020 in Writ Petition No.1295/2020 filed by Mr.Mankoli and quashed and set aside the order of placing him on supernumerary post. Mr.Mankoli was, therefore, reinstated on the post of the Livestock Supervisor, which he was occupying earlier.

7. We do not find any force in the submissions of the Zilla Parishad for the reason that Mr.Mankoli was placed in supernumerary category by order dated 10.01.2020. The petitioner was selected pursuant to the advertisement No.02/2019 dated 27.12.2019. One post of the Livestock Supervisor in Class III category reserved for the Scheduled Tribe, is shown to be vacant as on 27.12.2019 and this vacancy is unconnected with the case of Mr.Mankoli.

8. In view of the above, this Writ Petition is partly

allowed.

9. We deem it appropriate to direct the Chief Executive Officer, Zilla Parishad, Osmanabad, to abide by the directions dated 18.08.2021 issued by the Under Secretary, State of Maharashtra, by which, all the Chief Executive Officers in the State of Maharashtra have been directed to proceed to make appointments as per the select list/wait list, as the case may be. We expect the Chief Executive Officer to initiate steps and pass an appropriate order as expeditiously as possible and in any case, on or before 21.10.2022.

kps

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)