

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

917 WRIT PETITION NO.8739 OF 2022

**SHIVAJI DAGDU SIRSAT
VERSUS
THE DIRECTOR OF HEALTH SERVICES AND OTHERS**

...

Advocate for Petitioner : Mr. P. M. Shinde h/f Mr. Jadhav Prashant B.
AGP for Respondent : Mr. S.B. Yawalkar

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 24.08.2022.

PER COURT : (PER : SANDEEP V. MARNE, J)

We have heard both the sides.

2. By the present petition, the petitioner assails order dated 16.02.2022 passed by the Maharashtra Administrative Tribunal in Original Application No. 440/2018 which was instituted by the petitioner seeking appointment on the post of driver-Group 'C' against 'Scheduled Caste- Project Affected Persons' category. The prayer was essentially premised on an assertion that the respondent No. 5 who was selected for appointment was unable to submit verification of certificate of Project Affected Person (PAP) within the stipulated period. In para 10 of his original application, the petitioner averred as under :

“The applicant submits that, as the applicant has successfully undergone the selection process for the post of Driver and the applicant was second meritorious candidate amongst SC-PAP category having obtained 167 marks and also the time period for verification of PAP certificate has been already expired on 16.02.2018 and then the applicant has submitted the

representation disclosing therein the claim of the applicant ought to have been considered amongst SC-PAP category. The representation submitted by the applicant has not been considered by the respondents authority. The applicant is not challenging the selection of the selected candidate but the applicant is seeking the redressal as against the respondents authorities in respect of getting the certificate verified within prescribed time as per their own letter dated 16.11.2017 and this has not been done by the respondents authority and therefore, the applicant is entitled to claim the appointment for the post of Driver amongst SC-PAP category.”

3. When the original application came up for hearing on 16.02.2022, the verification certificate in respect of respondent No. 5, issued on 11.02.2022, was produced before the Tribunal. Noticing that the PAP certificate in respect of respondent No. 5 has already been verified, the Tribunal proceeded to observe that the prayers made in the original application had become infructuous and accordingly disposed of the original application.

4. Appearing on behalf of the petitioner Mr. Shinde learned advocate submits that the verification certificate dated 11.02.2022 has been issued by an incompetent authority. He further submits that petitioner is the next available candidate in the select list. He also submits that till date the respondent No 5 has not joined the post and that therefore petitioner's case is required to be considered for grant of appointment. He relies upon representation dated 19.04.2022 and alleges that the petitioner may be granted appointment on account of non joining of respondent No. 5.

5. We find that the verification certificate dated 11.02.2022 was not challenged by the petitioner in any manner before the Tribunal. In fact, from the averments in the original application as reproduced herein above, it is apparent that the petitioner never even intended to challenge the

selection of respondent No. 5. Therefore, we do not wish to go into the issue of validity of the verification certificate.

6. So far as, petitioner's grievance about non joining of respondent No. 5 is concerned, we are afraid, the said issue was again not the subject matter of controversy before the Tribunal. It was not the case of the petitioner before the Tribunal that on account of non joining of respondent No. 5, he ought to have been appointed. Therefore, we are not in a position to go into the said issue.

7. We do not find any infirmity in the order passed by the Tribunal. The petition filed by the petitioner deserves to be dismissed and same is dismissed accordingly. If the petitioner wants to pursue his remedy with regard to his claim for appointment on account of non joining of respondent No. 5, the petitioner is at liberty to raise the same before the appropriate forum.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-