

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

910 WRIT PETITION NO.11841 OF 2021

SUPRIYA SAINATH GOPUWAR
VERSUS
MAHARASHTRA INDUSTRIAL DEVELOPMENT
CORPORATION

...
Advocate for the petitioner : Mr.S.B.Gastgar
Advocate for Respondent : Mr.S.S.Dande

...
**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 31.03.2022

P.C. :

1. By this petition, the petitioner has put forth prayer clause-B, which reads as under :

(B) By issuing writ of Mandamus or any other appropriate writ, order or directions in the like nature to direct the respondent to issue appointment order on the vacant post of Clerk-Cum-Typist (Class-C) to the petitioner being she is eligible & meritorious candidate from Scheduled Tribe reserved category as per the advertisement and Merit/Selection List published by respondent on 04.08.2021 in which name of petitioner is at Sr. No.6 and Secured 117.50 marks out of 200 and no eligible candidate available from Ex-Soldier category.

2. On 28.03.2022, we had requested the learned Advocate for the respondent – MIDC to take instructions as regards the last selected female candidate Ms.Swati Vitthal Mahale and as to what would be status of two competing candidates, who had scored equal marks and both are eligible for appointment.

3. The learned Advocate for the respondent submits, on instructions, that the selected candidate Ms.Swati Vitthal Mahale has not joined and since she did not report for duties pursuant to her appointment order, the said appointment order has been cancelled.

4. In view of the above, there is one vacancy for a female candidate. Admittedly, the petitioner herein has scored 117.50 marks and another candidate, namely, Varsha Akash Bharmal has also scored 117.50 marks. None of them belong to the category of being ward of an agriculturist, who has committed suicide.

5. The learned Advocate for the MIDC relies upon the Government Resolution dated 13.06.2018 issued by the General Administration Department of the State of Maharashtra and specifically points out clause 11 (2) which provides for a candidate to be appointed based on the date of birth, in the event of two candidates having secured

identical marks. The candidate, who is elder amongst the two, is to be offered the post.

6. In view of the above, it would be Varsha Akash Bharmal, who is born on 07.02.1992, being senior as the petitioner is born on 26.03.1994, who would be eligible for appointment and the respondent will have to initiate steps for issuing an appointment order in favour of Varsha Akash Bharmal.

7. In so far as the request of the petitioner, that as one post of Ex-serviceman, is yet to be filled in, and the petitioner should be appointed on the said post, we are afraid, we cannot entertain such a request.

8. In view of the above, this petition is dismissed.

[S.G.DIGE, J.]

[RAVINDRA V. GHUGE, J.]

DDC