

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5759 OF 2019

Ku. Megha d/o Sadashiv Rathod,
 (Sau. Megha w/o Pramod Naik),
 Age about 30 years,
 Occupation-Student & Household Work,
 R/o. Plot No.6, Vinay Shrivastav,
 Atre Layout, Pratap Nagar,
 Nagpur.

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Petitioner

.. Versus ..

1. State of Maharashtra, through
 The Secretary, Revenue Department,
 Mantralaya, Mumbai-32.
2. District Selection Committee,
 Collectorate, Gondia.
 Through its Chairman,
3. The Collector, Gondia,
 Tq. and Distt. Gondia.

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Respondents

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 Shri C.A. Joshi, Advocate for the petitioner,
 Shri N.R. Patil, A.G.P. for the respondents/State.

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.
DATED : 01.04.2022.

ORAL JUDGMENT (Per : A.S. Chandurkar, J.)

Rule. Rule made returnable forthwith. Heard the learned counsel for the parties.

2. The petitioner claims to belonging to 'Banjara'-Vimukta Jati (A). Pursuant to an advertisement dated 12.08.2016, applications were invited for filling the post of Talathi. The posts advertised were six in number. One post was kept reserved for V.J. (A) woman. As per Clause 1.3 of that advertisement, a candidate seeking employment in the reserved category was required to possess a caste certificate. It was further stated that the caste validity certificate was required to be furnished within a period of six months of the appointment. The petitioner applied for appointment on the post of Talathi. In the application form it was required to be mentioned whether the candidate was possessing the caste validity certificate. Against that column, the petitioner stated that she was possessing a validity certificate. However, the District Selection Committee in its minutes recorded that though the petitioner in the application form had submitted that she was possessing a validity certificate, the same was not submitted by her. On that count, the petitioner was held disqualified. Being aggrieved, the petitioner approached the Maharashtra Administrative Tribunal by filing Original Application No.489/2017. The Tribunal by its judgment dated

09.04.2019 found that the petitioner by stating that she was in possession of a validity certificate was guilty of furnishing false information and therefore the rejection of her candidature could not be said to be illegal. The Original Application was therefore dismissed. Being aggrieved, the petitioner has filed the present writ petition.

3. Shri C.A. Joshi, the learned counsel for the petitioner submits that the petitioner belongs to 'Banjara -VJ (A)'. The petitioner's real brother Sandip has been issued a validity certificate by the Scrutiny Committee on 27.11.2003. The petitioner under the bonafide belief had stated that she was possessing a validity certificate. Referring to the Government Resolution dated 22.08.2007, it was submitted that if a blood relative was possessing a validity certificate, similar validity certificate was liable to be issued to another blood relative. There was no dispute with regard to the relationship between the petitioner and her brother Sandip which was clear from the affidavit filed by her brother dated 30.03.2022. He then submitted that even today one post of Talathi reserved for V.J. (A) candidate was lying vacant. It was thus submitted that since one post was lying vacant and the petitioner's brother was in possession of a validity certificate, the candidature of the petitioner ought to be considered.

4. Shri N.R. Patil, the learned Assistant Government Pleader for the respondents supported the order passed by the Tribunal. According

to him, the District Selection Committee on 05.05.2017 verified the documents of all candidates and found that though the petitioner had secured 140 marks, she was not possessing a validity certificate. The Committee thus rightly found that the petitioner was not eligible for the appointment. He therefore submitted that no fault could be found with the order passed by the Tribunal. He however did not dispute the fact that at Sub-Division Deori one post of Talathi reserved for V.J. (A) candidate was lying vacant.

5. We have heard the learned counsel for the parties and we have perused the documents on record.

6. It is not in dispute that the petitioner had sought appointment on the post of Talathi that was reserved for V.J. (A) woman. While filling the application form, the petitioner stated that she was possessing a validity certificate. The petitioner however does not possess such validity certificate and has relied upon the validity certificate of her brother issued by the Scrutiny Committee. From the reply filed by the respondents, it is clear that the District Selection Committee found the petitioner ineligible for appointment for want of validity certificate. For one post that was reserved for V.J. (A) woman, two candidates had applied, but both were held not eligible. As a result, one post reserved for V.J. (A) still remain vacant.

7. As per the Government Resolution dated 22.08.2007, the Social Welfare Department has taken a decision that if a blood relative of an applicant possesses a validity certificate, such applicant should normally be issued a validity certificate within a period of one month of the application and without insisting for further documentary proof. It is a fact on record that the petitioner's brother has been issued a validity certificate and the relationship between the petitioner and her brother is also sought to be substantiated. It is true that the petitioner in the application form had stated that she was possessing the validity certificate which has been found to be incorrect. It however cannot be held that such disclosure was with a malafide intention or was totally false. The information given by her was incorrect and the fact that her brother possesses a validity certificate is a relevant fact. It is seen from the documents filed by the respondents that from the candidates who had applied for the post of Talathi reserved for V.J. (A), the petitioner had secured more marks than the other candidates, but was held ineligible for want of validity certificate. Considering the fact that the petitioner had immediately approached the Tribunal for seeking relief coupled with the fact that till today no fresh recruitment process has been undertaken for filling the post of Talathi and one post of Talathi is lying vacant at Deori Sub-Division, we are inclined to direct the District Selection Committee to re-consider the candidature of the petitioner in the light of the fact that

her brother possesses a validity certificate. The effect of Govt. Resolution dated 22.08.2007 as well as Clause 1.3 in the advertisement that was issued is also required to be taken into consideration. This is for the reason that a provision has been made for producing the caste validity certificate within a period of six months from such appointment.

8. In view of aforesaid, the following order is passed :

(i) The respondent nos.2 and 3 are directed to re-consider the candidature of the petitioner for appointment on the post of Talathi reserved for V.J. (A) lying vacant at Deori Sub-Division in the light of the observations made hereinabove, such decision be taken by the said respondents within a period of four weeks from production of this order. The decision taken be communicated to the petitioner.

(ii) It is clarified that the judgment dated 09.04.2019 in Original Application No.489/2017 would not come in the way of the petitioner while taking such exercise. Needless to state that if the petitioner is aggrieved by the fresh adjudication, she is free to take further steps as are permissible in law.

(iii) Rule is made absolute in aforesaid terms. No costs.

[SMT. M.S. JAWALKAR, J.]

[A.S. CHANDURKAR, J.]