

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

WRIT PETITION NO.2884/2020

Ku. Durga Prakash Fupate ... Petitioner

- Versus -

State of Maharashtra and others ... Respondents

Mr. S.A. Marathe, Advocate for Petitioner.

Mr. A.A. Madiwale, Assistant Government Pleader for
Respondent Nos. 1 and 3.

Mr. C.M. Samarth and Mr. V.P. Ingle, Advocates for Respondent
No.2.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 25 APRIL 2022

P.C. :

The contention of the Petitioner is that the Petitioner participated in the recruitment pursuant to advertisement issued in August 2019 by Respondent No.2-Agriculture Produce Market Committee and in the select list the Petitioner was at Serial No.2. According to the Petitioner, the candidate at Serial

No.1 in the select list did not join and, therefore, the Petitioner who was at Serial No.2 ought to have been appointed.

2. The reply affidavit has been filed by the Respondent No.2-A.P.M.C. In its reply Respondent No.2-A.P.M.C. has taken up various grounds, such as not only the candidate at Serial No.1, the Petitioner and one candidate below to her also did not join as it was during COVID Pandemic. Second ground is that the candidate at Serial No.1 has given a representation on 11 June 2020 that because of the lock-down the candidate at Serial No.1 could not join and she has shown her willingness to join on the said post. Apart from these grounds, one of the grounds taken by Respondent No.2-A.P.M.C. is that since the post has not been filled in for the above reason either from the candidate at Serial No.1 or the Petitioner, Respondent No.2-A.P.M.C. has taken a decision to keep the said post vacant due to financial condition of Respondent No.-2-A.P.M.C. as the Committee is not in a position to pay the salary for this post. If that be the position after the recruitment drive in August 2019 for which selection list was prepared, Writ of Mandamus cannot be issued to Respondent No. 2 to fill up the post.

3. It is the Petitioner's case that the Petitioner was not given any appointment order. None of the candidates joined.

Therefore, if the select list has not been taken forward and at this stage if Respondent No.-2-A.P.M.C. has taken a decision not to fill up the post, the same will have to be taken note of. When the post is decided to be filled up, the Respondent No.-A.P.M.C. will have to follow the necessary legal procedure of public participation for the same.

4. The Writ Petition is, accordingly, disposed of with above observations.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)