

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

48 WRIT PETITION NO.4280 OF 2023

BHARATI BARKU KHAIRNAR
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH THE SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Shrinivas S. Wagh.
AGP for Respondent/State : Mr. S. G. Karlekar.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 17th April, 2023.

Per Court:

1. The Petitioner had approached this Court in Writ Petition No.1397 of 2015. Paragraph 5 of the order dated 17th February, 2016, reads as under:-

“5) In that view of the matter, since the recruitment process which was undertaken has been already completed by the respondents, we are not inclined to entertain the petition. However, in case the District Selection Committee issues an advertisement for recruitment for the current year, and if the candidate from the aforesaid category, i.e. “Apang” (handicapped by one leg) is not available in earlier recruitment process, it is incumbent upon Respondent Nos. 2 and 3 to invoke the provisions of Section 36 of the said Act, and advertise the said post and in case a suitable person with disability is not available, follow the process of

interchange among the three categories, including the category from which petitioner has applied.”

2. Since the above direction was not complied with, the Petitioner again approached this Court in Writ Petition No.14937 of 2017. By order dated 9th July, 2018, it was recorded in paragraph No.5 as under:-

“5. In light of that, as it is already stated that fresh advertisement would be issued by 31st July 2018, the case of the petitioner shall be considered in tune with the observations made by this Court in Writ Petition No. 1397 of 2015 decided on 17.02.2016.”

3. The Petitioner then filed contempt proceedings bearing Contempt Petition No.717 of 2018. This Court concluded, by virtue of the statement of the Zilla Parishad, that the order has already been complied with and therefore, the contempt proceeding was disposed off.

4. We are informed that the department has not issued any written communication to the Petitioner though he carries an impression, on oral information, that the advertisement dated 6th March, 2019, is likely to be withdrawn. A Writ of Mandamus cannot be issued on assumptions and presumptions. There is no cause of action as on today.

5. The learned Advocate for the Petitioner submits, on instructions, that the Petitioner desires to file a representation to the Zilla Parishad and prays for leave to withdraw this Petition.

6. In view of the above, this Petition is disposed off, as withdrawn on instructions, since the Petitioner desires to approach the Zilla Parishad.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]