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

82 WRIT PETITION NO.12789 OF 2023

**SAMEER RAIS DESHMUKH
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

....

Mr T. Y. Sayyed, Advocate for Petitioner;
Mr P. K. Lakhotiya, A.G.P. for Respondent Nos.1 & 2
Mr A. S. Bajaj, Advocate for Respondent Nos.3 & 4

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 17th October, 2023

PER COURT:

1. The learned Advocate for the Petitioner, who has addressed us through the Video Conferencing mode, submits that, a copy of the Petition paper-book has been served on Respondent Nos.3 and 4, physically. They have been intimated of the hearing in this matter.

2. We have considered the submissions of the learned Advocate for the Petitioner, who points out prayer clauses (B), (C) and (D), which are as under :-

(2)

“B. By issuing Writ of Mandamus or any other Writ, order or direction in the like nature, to direct the respondents to consider appointing the Petitioner on the post of Vidyut Sahayyak from EWS (Project affected category) in view of his selection vide selection list dated 03/05/2023 at Exhibit-C.

*C. Pending hearing and final disposal of this Writ Petition, one post of Vidyut sahayak be kept vacant in the office of Respondent MSEDCL.
Or in alternate*

D. Pending hearing and final disposal of this Writ Petition the effect, execution and implementation of selection list dated 06/10/2023 may kindly be stayed.”

3. Insofar as the Circular issued by the Respondent/Company, calling upon 51 candidates to appear with original documents for verification, all these candidates are in the wait-list category. The learned Advocate for the Petitioner submits that, the Petitioner has already undergone the said exercise. He is in the select-list and not in the wait-list. His documents have already been scrutinized and verified. He is at Sr. No.389. The list of the candidates (51), whose documents are to be verified, are from the ‘Economically Weaker Section’ (E.W.S.) category.

(3)

4. The Petitioner seeks a Writ of Mandamus for directing the Respondent/Company, to issue him an appointment order. It is a trite law, over more than four decades that, selection does not give a right to an appointment. It is only when the serial number in the select-list of a candidate is overlooked and somebody below him/her, with lesser marks, is selected, such candidate has a cause of action.

5. In the instant case, the Petitioner is at Sr. No.389. There is no statement made by the Petitioner that, the candidates upto Sr.No.388 and Sr. No.390 on-wards, have been appointed. There can be no debate that, if the list upto Sr.No.388 is exhausted by issuing appointment orders and the Petitioner, who is at Sr.No.389 is overlooked and a candidate at Sr.No.389 is appointed by issuing of an appointment order, the Petitioner has a cause of action.

6. In view of the above, we arrive at a conclusion in the light of the documents placed before us and the pleadings in the memo of the Petition paper-book that, the Petitioner's turn is yet to arrive. We, therefore, observe that, if the candidates beyond Sr.Nos. 388 or any candidates from 390 onwards, have been

(4)

considered by affecting the right of the Petitioner, who claims to be from the Sports Person/Project Affected Person (PAP) category, the Petitioner's case would be considered. If the Petitioner's turn comes, as and when his serial number arrives, he can be appointed if there is no legal impediment.

7. With the above observations, **this Writ Petition is disposed off.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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