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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1245 OF 2023

Vaishali D/o Kashinath Thorat .. Petitioner

Versus

**The Municipal Corporation
Of Greater Mumbai & Anr. .. Respondents**

Mr. Nitin Gaware Patil for petitioner.

Mr. B. V. Samant, AGP for respondent no.2/State.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: FEBRUARY 9, 2023

P.C.:

1. Pursuant to the advertisement issued by the Maharashtra Public Service Commission for appointment to the post of Assistant Commissioner, Municipal Corporation of Greater Mumbai (Group – A), the petitioner filled in the form from economic weaker section. The petitioner is held ineligible on the ground that the petitioner did not possess EWS certificate as on the date of the application.

2. Mr. Gaware, learned advocate for the petitioner submits that the advertisement itself was faulty. The advertisement was not in consonance with the Government Resolution dated 12th February, 2019. Under the said Government Resolution, the EWS certificate may be valid upto six months from the date of application pursuant to the advertisement. The petitioner had obtained the EWS certificate on 3rd December, 2021, as such, she possessed valid EWS certificate. According to the learned counsel there was no option to upload the EWS certificate along with the application. In

view of that, application itself was valid. In the subsequent advertisement, they have corrected the said mistake and option for uploading the EWS certificate was provided. The learned counsel further submits that a distinction is made between non-creamy layer certificate and EWS certificate in the terms of the advertisement. As per Clause 3.5.8.6, the candidate should possess a non-creamy layer certificate valid as on the date of the application, whereas as per the Government Resolution dated 12th February, 2019, the EWS certificate is required to be valid upto six months from the date of filing of the application. The learned counsel further submits that the terms in the advertisement are considered to be valid and not the terms of the general conditions if there is inconsistency between them.

3. We have heard the learned AGP also.

4. The petition at its threshold does not deserve to be entertained even for a moment. The petitioner had filled in application for Group-A post, viz., Assistant Commissioner, Municipal Corporation of Greater Mumbai. It is expected of a candidate to give true and faithful information of facts. The petitioner had filled in the application in the month of July, 2021. On the said date, admittedly, the petitioner was not in receipt of EWS certificate. She received EWS certificate only on 3rd December, 2021. In the application filled in by her, in column of Category EWS, she mentioned EWS certificate number as 12345 and issuing date as 5th July, 2021. We called upon the learned advocate for the petitioner to confirm existence of the said certificate as mentioned in the application filled in by the petitioner pursuant to the advertisement. The learned advocate for the petitioner, on instructions, candidly accepted that no such certificate existed on the said date with the petitioner.

5. The petitioner has applied for a responsible post that too of

Group-A. We cannot expect a person applying for such a post filling in false information.

6. The general terms and conditions of the advertisement also prescribed that the candidate should possess EWS certificate.

7. In view of the aforesaid premise, no case is made out by the petitioner for interference. The candidature of the petitioner is rightly rejected.

8. The writ petition is dismissed. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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signed by
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DASHARATH
PANDIT
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