

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

WRIT PETITION NO. 5559 OF 2023

Shridhar Sunil Samant

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Dnyaneshwar Kale for the Petitioner

Mr. B.V. Samant, AGP for the Respondent - State

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 29 AUGUST 2023

P.C. :-

Heard the learned Counsel for the Petitioner.

2. The Petitioner had approached the Maharashtra Administrative Tribunal challenging the order dated 25 December 2019 rejecting the Petitioner's candidature on the ground that he has submitted his Economically Weaker Section Category certificate after the cut-off date. The cut-off date for the Petitioner was 22 September 2019. The Petitioner secured the certificate on 9 October 2019, 16 days after the cut-off date. The Tribunal has decided the matter against the Petitioner by the following reasoning :-

“6. In this case case it is evident that the applicant is meritorious having secured 154 marks which was highest in the EWS category. However, he obtained the EWS certificate late after the cut-off date. In view of the fact that the applicant was meritorious, we enquired from the Ld. CPO whether there was any post vacant from the said selection process. We are informed that there was one post vacant in Ex-serviceman category. However, the GAD clarified that the Zilla Sainik Welfare Office, Thane did not give NOC to de-reserve the post, which is required for de-reservation. While we are in agreement that the applicant is meritorious and has been denied appointment only because he submitted his EWS certificate beyond the cut-off date, we are unable to grant relief in this matter as there is no post available in the EWS category. Though the Government had issued clarification letter/order dated 14.09.2020 wherein the candidates were allowed to submit their EWS certificate till March, 2020, however, the said selection process was already over in the month of January, 2020.”

3. Though the reasoning of the Tribunal regarding the cut-off date to the effect that it does not seem to be mandatory is debatable, the Tribunal has further stated that in the advertisement there were only certain posts earmarked for Economically Weaker Section category and there is no post available in the Economically Weaker Section category.

4. That being the position, we do not find any error in the approach of the Tribunal in passing the impugned order. We are

informed that the new process for recruitment to the post of Talathi is under way where the Petitioner has already participated.

5. The Writ Petition is accordingly rejected.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

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PAWAR

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