



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3066 OF 2018

Jai Babruwan Jadhav

..... Petitioner

Vs.

The State of Maharashtra and Anr.

..... Respondents

WITH
WRIT PETITION NO.5536 OF 2021

Sujata Sakharam More

..... Petitioner

Vs.

The State of Maharashtra and Anr.

..... Respondents

Mr.Vijay Killedar for Petitioner in both the Writ Petitions
Mr.G.H.Keluskar for Respondent No.2 in Writ Petition No.3066 of 2018
Mr.P.P.Kakade, G.P. with Mr.A.I.Patel, Addl. G.P. and Ms.Ashwini A. Purav,
A.G.P. for the Respondent no.1 State in both the Writ Petitions
Mr.Kedar B. Dighe a/w Ms.Archana Gaware for the Respondent no.2 /
PCMC

CORAM: SUNIL B. SHUKRE, J. &
FIRDOSH P. POONTWALLA, J.
DATED : 21st AUGUST 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal.
2. Both these petitioners claim to be placed in the selection list of the candidates to be appointed to the post of Civil Engineering Assistant of

Pimpri Chinchwad Municipal Corporation following the recruitment process of the year 2015. Their contention is that since some candidates in the selection list were found to be either not eligible for appointment or not interested in appointment, they ought to have been appointed to these respective positions, but they were not so appointed. They further submit that the facts are covered by the view taken by the coordinate bench of this court at Aurangabad in Writ Petition No.15140 of 2017 decided on 6th July 2022. The petitioners are therefore seeking parity in the matter.

3. We find that there has been one more petition which considered similar claim and which issued appropriate directions. This petition was filed by another candidate in the case of Rohini Lamimanrao Waghmare vs. State of Maharashtra in Writ Petition No.4773 of 2017 wherein the coordinate bench of this court by its order dated 20th November 2017 directed the Corporation to consider the claim of the petitioner and issue the requisite order as expeditiously as possible. In that petition, the Division Bench has also noted that the order was passed in the peculiar circumstances of the petitioner's case and also for the reason that she was fighting for her rights since the year 2017.

4. In one of the petitions namely Writ Petition No.5536 of 2021 facts seem to be some what different in the sense that the petitioner has approached this court in the year 2021, after the delay of about six years. Therefore, it is doubtful if the claim could be accepted by the Corporation.

But other facts involved in the petition appear to be similar to the facts involved in the other connected matter and also in the Writ Petition decided at Aurangabad. Therefore, we also find that there is a reason for saying that the Petitioner in Writ Petition No.5536 of 2021 perhaps could have been considered for being appointed to the post of Civil Engineering Assistant for the reason that two selected candidates namely Madhuri Kamble and Sheetal Sale were not issued any appointment orders on the grounds that Madhuri Kamble did not join and Sheetal Sale was found to be not eligible. Therefore, if there is any vacancy in the category of 'Scheduled Caste' we are of the view that the claim of this petitioner and also the other petitioner can be considered on the ground of parity as well as equity.

5. Accordingly, we issue following directions to the Corporation:

- a. Pimpri Chinchwad Municipal Corporation is directed to consider the claim of both the petitioners in accordance with law and if it is found that the claim of each of the petitioners can be accepted, necessary orders of appointment shall be issued to the Petitioners if they are otherwise found to be eligible for the same. The whole exercise shall be completed within a period of four weeks from the date of receipt of writ of this Court.
- b. While deciding the claim of each of the petitioners, due regard shall be had to the observations made by this court hereinabove.

- c. Rule is made absolute in above terms.
- d. Both the Writ Petitions are disposed of accordingly.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)