



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

WRIT PETITION NO. 3760 OF 2020

Syeda Tamaniyat Syed Mudassir Hussain Chisty

VERSUS

The State Of Maharashtra And Others

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Advocate for the Petitioner : Mr. S.S. Kazi

Addl. GP for Respondents 1 to 3 : Mr. M.K. Goyanka

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**CORAM : DEVENDRA KUMAR UPADHYAYA, C.J.
& ARUN R. PEDNEKER, J.**

Dated : FEBRUARY 09, 2024

P. C. :-

1. Rejoinder affidavit filed today is taken on record.
2. The respondents admit that certain candidates, who were lower in merit than the merit of petitioner, have been appointed on the post of Assistant Teacher, however, reason of non-appointment of the petitioner is that she first generated preferences on 6th December, 2019 by login into the portal and thereafter, on 10th December, 2019 she assigned certain preference and confirmed the same as well and accordingly locked the preference. However, on 16th December, 2019 she deleted all the preferences and accordingly, she could not secure appointment, despite having higher in merit.

3. The aforesaid fact is being disputed by the petitioner. However, such facts cannot be ascertained by this Court as determination of such issue lies in the domain of computer expert.

4. In the rejoinder affidavit, it has been stated by the petitioner that she did not delete the preferences on 16th December 2019, it is rather some person other than the petitioner, who might have done, having login and pass-word of the petitioner. Such factual aspect, in our opinion, cannot be ascertained in this proceeding under Article 226 of the Constitution of India, for the reason that such issue lies in the domain of computer experts.

5. At this juncture, the learned counsel for the petitioner has stated that there are still vacancies available for the post of Assistant Teachers (Urdu) at Districts Jalna, Osmanabad and Solapur, which were subjected to the same selection process in which the petitioner has participated.

6. If that be so and the petitioner can be lawfully adjusted against any of such vacancy, her case for appointment shall be considered by the Commissioner of Education, Commissionerate of Education, Maharashtra State Central Building, Dr. Annie

Besant Road, Pune and shall take proper decision in accordance with law within six weeks.

7. For the aforesaid purpose, the petitioner is permitted to make an application, giving all the requisite details along with the certified copy of this order to the Commissioner of Education within two weeks.

8. We make it clear that we have neither made any observation, nor given any finding on the merits of the claim of the petitioner.

9. The writ petition is, thus, disposed of with the aforesaid observations and directions.

(ARUN R. PEDNEKER, J.)

(CHIEF JUSTICE)

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