



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

**53 WRIT PETITION NO. 8743 OF 2024
(Board dt.19.08.2024)**

**BALASAHEB NAGNATH TANDALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS**

...
Shri Jadhavar Santosh S., Advocate for the Petitioner.
Shri M.M. Nerlikar, AGP for Respondent Nos.1 and 3/State.
Shri P.D. Suryawanshi, Advocate for Respondent Nos.2 and 4/ZP.
...

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

DATE :- 20th August, 2024

Per Court :-

1. The Petitioner has put forth prayer clauses B, C and D as under:-

- “B) *By issuing appropriate writ order or direction, candidature of respondent No.5 for the post of Health Supervisor in view of Advertisement No. 1/2023 issued by respondent No.2, so also his inclusion in the list of qualified candidates for the post of Health Supervisor and his selection for the said post, may kindly be quashed and set aside.*
- C) *By issuing writ of mandamus or any other appropriate writ, order or direction, the*

respondent No.2 to 4 may kindly be directed to select petitioner for the post of Health Supervisor advertised in Advertisement No.1/2023 and to issue an appointment order in his favour with retrospective effect from the date on which other candidates have been issued appointment order by granting him all consequential benefits.

D) Pending hearing and final disposal of this Writ Petition, the respondent No.2 to 4 may kindly be restrained from issuing appointment order in favour of respondent No.5 in view of inclusion of his name in the list of qualified candidates for the post of Health Supervisor.”

2. The Institute of Banking Personnel Selection, Mumbai, Zilla Parishads, Government of Maharashtra, conducted an examination for recruiting the candidates for the posts of Health Supervisors. There are three posts available. One is for the Open Category, one is reserved for Other Backward Class category and the last one is reserved for VJ-A category.

3. The Petitioner belongs to NT-D category. However, he applied from the Open category, contending that as there is no post reserved for NT-D category, he could not have applied from his category and hence, he tried his destiny from the Open category.

4. The argument of the learned Advocate for the Petitioner is that as per clause 17.13 of Advertisement No.1/2023, if a candidate is not available from the VJ-A category, the reservation would be transferable to NT-B, NT-C or NT-D category. According to the Petitioner, none in the list of qualified candidates in descending order of marks, belongs to the NT-B and NT-C category. The Petitioner belongs to NT-D category. He further submits that if the candidate belonging to VJ-A category, namely, Manoj Bhausahab Rathod, who is arrayed as Respondent No.5, is disqualified, the said post would be transferable either to NT-B or to NT-C or to NT-D category. According to the Petitioner, since no candidate is in the list of qualified candidates belongs to NT-B or NT-C category, the post would be allocable to NT-D category and the Petitioner would have a chance.

5. It is further argued that as there was no post available for the NT-D category, the Petitioner has opted for the Open category.

6. The learned Advocate for the Respondent/ Zilla

Parishad submits that the candidates in the list of qualified candidates from the Open and OBC categories have already been appointed. The candidate belonging to VJ-A category i.e. Respondent No.5 herein, is under consideration. No decision has been taken on the said candidate. The apprehension of the Petitioner is that the said candidate is likely to be appointed.

7. Apparently, this petition is prematurely filed, for reasons more than one. Firstly, that the Petitioner had voluntarily participated in the selection process from the Open category. It is circumspect as to whether, he can seek transfer from the Open category to NT-D category, only because the post from the VJ-A category is likely to be allocable to NT-D category. This is not the stage for considering the said aspect. Secondly, Respondent No.5 is under consideration. If he is appointed and the Petitioner is of the belief that he does not carry the requisite qualification, the Petitioner can then assail his appointment.

8. In view of the above, **this Writ Petition is disposed off** purely for having being filed prematurely.

9. Needless to state, if Respondent No.5 is appointed and if the Petitioner desires to challenge the said appointment, the contentions of the Petitioner would be open for raising such challenge.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)