

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5501 OF 2023

Vishal S/o Dipakrao Ladhe

Vs.

State of Maharashtra through District Collector, Amravati and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri C.A. Babrekar, Advocate for petitioner
Shri A.V. Palshikar, AGP for respondents/State

CORAM : AVINASH G. GHAROTE AND
SMT M.S. JAWALKAR, JJ.

DATE : 09.10.2024.

Heard, Mr. C.A. Babrekar, learned Counsel for the petitioner and Shri Palshikar, learned Assistant Government Pleader for respondents.

2. On 25/08/2023, the following position is recorded :

“ The petitioner possesses a caste certificate of belonging to Nomadic Tribe – C as ‘Dhangar’. In the recruitment process for the post of ‘Kotwal’ pursuant to the Proclamation dated 26/7/2023 the petitioner sought to participate for Village – Bhugaon where the post is reserved for the candidates from Nomadic Tribe – D. Referring to the said Proclamation and especially Clause 2.13 thereof, it is submitted that if a candidate from the

category for which the post is reserved is not available then the candidates from other categories could be considered for appointment. Support of the Government Resolution dated 29/3/1997 is sought to be taken. The petitioner has been refused permission to participate in the recruitment process on the ground that the post is reserved for the candidates from Nomadic Tribe – D category and the petitioner belongs to Nomadic Tribe – C category.

2] Issue notice to the respondents returnable in two weeks.

3] The learned Assistant Government Pleader waives notice for the respondents.

4] Prima facie, considering Clause 2.13 of the Proclamation dated 26/7/2023 with regard to interchangeability of candidates, in case no candidate from the category for which the post is reserved is available, the petitioner who belongs to Nomadic Tribe – C category is permitted to appear for the examination to be held on 27/8/2023. Respondent no.3 to take steps to enable the petitioner to appear for the said examination. It is made clear that the appearance of the petitioner would not confer any right and the same is subject to the final outcome of the Writ Petition. The petitioner would not be entitled to claim any equity in that regard.”

3. The learned Assistant Government Pleader does not dispute that the petitioner belongs to Nomadic Tribe - C category, whereas, the post of 'Kotwal' for the village Bhugaon was reserved for Nomadic Tribe - D category. The learned Assistant Government Pleader also does not dispute the position as indicated from the Government Resolution dated 29/03/1997 (page 39), which indicates that the reservations in category A,B,C,D for VJ/NT in direct recruitment would be internally transferable. The advertisement dated 26/07/2023 (page 16) vide Clause 2.13 (Page 19), enumerates that, in case, no candidate is available for a particular category then

the candidature of a person from another category shall be considered. In that view of the matter, there was no reason for rejecting the candidature of the petitioner for the post of 'Kotwal' by the impugned communication dated 14/08/2023.

4. We have been informed that in pursuance to the interim order dated 25/08/2023, the petitioner has appeared in the exam, however, his result has not been declared.

5. We, therefore, quash and set aside the impugned communication dated 14/08/2023 (page 15), by holding that the candidature of the petitioner was entitled to be considered in terms of Clause 2.13 of the advertisement dated 26/07/2023 read with Clause – 2 of the Government Resolution dated 29/03/1997. Since the petitioner has already appeared in the examination, his result be declared and appropriate steps be taken in consonance with the said declaration.

(SMT M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)