



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO. 10080 OF 2023

REKHA PRABHAKAR PATIL

VERSUS

STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Solanke Shrinivas Trimbakrao

AGP for Respondent nos. 1 to 3 : Mr. V.M. Kagne

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CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.

DATE : 18.03.2025

PER COURT :

Heard the learned advocate for the petitioner.

2. On the first date that is on 17.08.2023, a query was expressly put to the learned advocate for the petitioner to satisfy if the petitioner's initial appointment was against a reserved category post and additionally, in consonance with the stand being taken in the petition it was also asked as to if any process of law was followed before shifting her to a vacant open category post.

3. The matter has been circulated thereafter after about one and half year. The learned advocate for the petitioner submits that as of now there is no record to demonstrate that the petitioner was subsequently shifted to an open seat by following any process of law.

4. He would submit that the roster has been certified but not even a copy of it with any certification is placed on record.

5. We have every reason to believe that the petitioner is some how killing the time when it is a matter of *fait accompli*.

6. Admittedly, the petitioner was appointed against a reserved category seat (OBC). After her claim was invalidated by the Divisional Caste Scrutiny Committee, she preferred Writ Petition No. 10638/2012. By the order dated 28.02.2019 this Court confirmed the order of the Scrutiny Committee and since thereafter, she has not been allowed to work. The very fact that when it was expressly noted in the order by the division bench that the petitioner was working on the basis of *ad interim* order passed by the Court and would be entitled to the salary for the period she was working and a direction was given to the Project Officer to process the salary bills, demonstrates that this Court has already confirmed her ineligibility to the post.

7. This boils down to the fact that the petitioner was appointed illegally against a seat reserved for OBC and has been subsequently terminated on her failure to produce a certificate of validity. It is in light of the above state of affairs, irrespective of the articulation of the prayers and the averments in the petition, she cannot be treated or granted any concession of being treated as a open candidate appointed against an unreserved seat.

8. The writ petition is dismissed.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)

mkd/-