



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.4908 OF 2024

Abdul Saleem Abdul Razzaque,
Aged about 47 Years,
Occ.: Teacher,
R/o. Bhandegaon, Tah. Darwah,
Dist. Yavatmal

: PETITIONER

...VERSUS...

1. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. The District Selection Committee,
Yavatmal, Through its President,
the District Collector, Yavatmal.
3. The Zilla Parishad, Yavatmal,
through Chief Executive Officer,
Tah.& Distt. Yavatmal.
4. The Education Officer, (Primary),
Zilla Parishad, Yavatmal,
Tah. & Distt. Yavatmal.

: RESPONDENTS

Mr. Anand Deshpande, Advocate for Petitioner.

Ms. H.N. Jaipurkar, Assistant Government Pleader for Respondent
Nos.1 and 2.

Mr. V.M. Kulsange, Advocate for Respondent Nos.3 and 4.

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 15th APRIL, 2026.

PRONOUNCED ON : 27th APRIL, 2026.

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.
2. The present petition is filed seeking a direction to the respondent No.3 i.e. Zilla Parishad, Yavatmal to fill in quota of 5% for the post of Extension Officer (Education), Class-III, Grade-2 from the reserved category of Project Affected Person, as per Clause 16.5 of the advertisement issued by the said respondent. It further prays for direction to consider the candidature of the petitioner under the abovesaid advertisement.
3. The facts as can be seen from the averments in the petition are as under :

The petitioner herein is owner and possessor of land bearing Gat No.14, measuring 1.78 HR, out of which 0.80 R land was acquired under the scheme of Antargaon Water Resource Department (Minor Irrigation Division), in Land Acquisition Case No.5/47/05-06. Accordingly, the Executive Engineer, Yavatmal, issued a certificate on 18/5/2007 to the petitioner. It is further stated in the petition that the respondent No.1 issued Government Resolution on 27/8/2009 and also on 28/12/2018, which provide reservation of 5% to persons belonging to Project Affected category

in the service of Government or quasi-Government organizations.

4. In pursuance to the said Government Resolutions the respondent Zilla Parishad published an advertisement bearing No.1 of 2023 for direct recruitment by online applications. Clause 16.5 of the said advertisement contemplates reservation of 5% to Project Affected Persons in view of the Government Resolutions mentioned above.

5. The petitioner being qualified for appointment applied for the post of Extension Officer (Education), Class-III, Grade-2, from Open Category wherein it was specifically mentioned that the petitioner is wishing to avail the reservation of a Project Affected Person. It was further stated that he had previously applied in March 2019 in the recruitment process. Thereafter, a list was published of selected candidates wherein no person was selected as Project Affected Person, even though the advertisement contemplated such a reservation. Being surprised by the said list, the petitioner made a representation for consideration of his name to the respondents on 22/2/2024. However, the said representation was rejected on 15/3/2023, which has prompted the respondents to file the present writ petition.

6. We have heard Mr. Anand Deshpande, learned counsel

for the petitioner, Ms. H.N. Jaipurkar, learned Assistant Government Pleader for the respondent Nos.1 and 2 and Mr. V.M. Kulsange, learned counsel for the respondent Nos.3 and 4.

7. After going through the record, Clause 16.5 of the advertisement in question specifically contemplates that reservation has been carved out as per Government Resolution dated 20.1.1980 and 27.8.2019. It further contemplates that for availing the said reservation certificate from the Collector/District Rehabilitation Officer is necessary. As can also be seen from the application made by the petitioner in pursuance to the said advertisement the petitioner has specifically stated that he wants to avail such reservation.

8. In the backdrop of these facts the learned counsel for the petitioner submits that action of the respondent in non-considering his candidature without adhering to the said clause of the advertisement is illegal and without any authority of law. He further submits that the petitioner was not selected in the year 2006 since there was no horizontal post reserved for the Project Affected Person and, therefore, the petitioner deserves to be appointed in the year 2023. It is his further submission that mere payment of compensation for the acquired land has always been considered to

be inadequate since the person displaced may not be able to come to terms with life merely by having cash at hands. It is, therefore, his submission that to discharge a statutory obligation of a welfare state, provision for reservation to the said Project Affected Person has been made. He further submits that the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and more particularly Section 6A provides for such reservation and the modality thereof. It is, therefore, his submission that the action is *de-hors* the provisions of law and liable to be quashed.

9. Per contra, while opposing the contentions canvassed by the learned counsel for the petitioner, the respondent Nos.2,3 and 4 submit that there were total 18 posts of Extension Officer which were advertised. Out of which, two posts were reserved for S.C. candidates and three posts were reserved for S.T., V.J.N.T., and O.B.C. candidates, one post was reserved for E.B.C. and six posts were available for Open Category candidates. He, therefore, submits that 5% quota of horizontal reservation for Project Affected Person has no scope and, therefore, no reservation for Project Affected Person was shown in reference to the post of Education Officer.

10. It is his further submission that as per Clause 14.5 of

the advertisement, the age limit for candidature was prescribed wherein the upper age limit for the Project Affected Person was shown to be 47 years instead of 45 years. He submits that the date of birth of the petitioner is 14/3/1975 and as per the said date, the petitioner has completed age of 48 years on 25/8/2023, that is the last date of submission of application. It is thus obvious that the petitioner was over age and, therefore, the candidature has rightly not been considered by the respondents.

11. As far as first ground raised by the respondents is concerned, the learned counsel for the petitioner has rightly relied on the judgment of coordinate Bench of this Court reported in **2019 (6) Bom.C.R. 651, Charushila Tukaram Chaudhari and others Vs. Maharashtra and another**, wherein in para 49 the Bench has carved out the modality for granting horizontal reservation. Para 49 would be relevant and produced as under :

“49. (I)
 (II)
 (III)
 (IV)
 (V)
 (VI) *The procedure in respect of preparation of the select list of candidates referred to in sub-paragraphs (i) to (iv) as under, shall have to be followed:*
(i) All the seats provided for the unreserved or open category to be filled in purely on merit and merit alone, though provisionally,

on the basis of the common merit list prepared, without applying any criteria whatsoever, other than merit.

(ii) All the seats from various vertical reservation categories to be filled in completely, without applying horizontal reservations. In selecting candidates by undertaking such exercise, every candidate who has figured in the open category allotment list to be excluded. The allotments so made in favour of the reserved category candidates not be counted towards the consumption of the reserved category.

(iii) The open category list, as also each vertical reservation list to be checked and verified to find out as to whether or not, the horizontal reservations are satisfied automatically. If they are, nothing more to be done.

(iv) If it is found, upon such verification that, either horizontal reservations are not satisfied or are partly satisfied, then, appropriate number of candidates from the bottom of respective lists to be removed or deleted and candidates strictly on merits, from the separate merit list prepared for the respective horizontal reservation category to be allotted those seats, as and by way of replacement.”

12. If the directions mentioned supra are considered in the facts of the present case, it is but obvious that the said directions are not followed and, therefore, in our considered opinion, the non-consideration of candidature of the petitioner on the said ground is unsustainable in law.

13. As far as the second ground regarding the petitioner

being over age is concerned, it can be seen from the advertisement in question that Clause 15 thereof carves out an exception to Clause 14.5. Clause 15 of the said advertisement contemplates that those candidates who have applied in pursuance to Government Resolution dated 21/10/2019 and those being over age have been granted relaxation in age. However, the said candidates have to fill application forms afresh. It is thus clear that Clause 15 acts as an exception to Clause 14.5 to the candidates, who have applied earlier. If the application form of the petitioner is perused, the said application form specifically states that he has submitted an application for recruitment process held in March 2019. Thus, this reason for rejecting or non-considering the candidature is also unsustainable in law.

14. It is thus obvious that both the reasons as canvassed by the respondents are illegal and erroneous. We are therefore of the considered opinion that the action of the respondents in non-considering the candidature of the petitioner under the quota of 5% of Project Affected Person is unsustainable in law.

15. We, therefore, pass the following order :

ORDER

(i) Writ petition is partly allowed.

(ii) The respondent No.3 Chief Executive Officer, Zilla Parishad, Yavatmal is directed to reconsider the candidature of the petitioner under the quota of 5% in view of the guidelines provided under Government Resolution dated 27/8/2009 and 28/12/2018 for the post of Extension Officer (Education) Class-III, Grade-2 from the category of Project Affected Person in accordance with law and as expeditiously as possible.

(iii) The writ petition is disposed of in above terms.

(iv) All pending applications are disposed of.

(v) Rule is made absolute in abovesaid terms.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)