

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 484 OF 2013

DISTRICT: - BEED.

Nagnath S/o. Shamrao Jadhav,
Age-44 years, Occu. : Labour,
R/o Salegaon, Tq. Kaij
District Beed.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra,
(Copy to be served on Principal
Secretary, Revenue and Forest
Department, Mantralaya,
Mumbai to be served through learned
Chief Presenting Officer, MAT,
Aurangabad.)

2. District Collector,
Collector Office Beed,
District Beed.

.. RESPONDENTS.

APPEARANCE : Shri. H.P. Jadhav, learned Advocate
for the applicant.

: Smt. Sanjivani Deshmukh-Ghate –
learned Presenting Officer for the
respondents.

CORAM : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**
AND
: **ATUL RAJ CHADHA, MEMBER (A)**

DATE : **6TH FEBRUARY, 2019.**

ORDER**[Per : Justice M.T. Joshi, Vice Chairman]**

1. Shri H.P. Jadhav, learned Advocate for the applicant and Smt. Sanjivani Deshmukh-Ghate, learned Presenting Officer for the respondents.

2. Heard both sides.

3. By the present Original Application the applicant is seeking the following reliefs: -

“B) Respondents may kindly be directed to sponsor applicant’s name for appointment forthwith as per the Govt. Resolutions issued from time to time and directions issued by this Tribunal on 21.11.2003 in T.A. No. 32/2002 (WP No. 741/99) **or** grant appointment in the Class III or IV category under Freedom fighters category.

C) Any other relief to which the humble petition is found entitled may kindly be awarded.

4. According to the applicant, he is a nominee of the freedom fighter as his father was honoured by the State Government being a freedom fighter. He was nominated

by his father for getting the benefits arising out of the same. According to him, in view of the decision of this Tribunal quoted in the prayer clause 'B', the applicant is entitled for being sponsored by the respondent No. 2, the District Collector, Beed, for his appointment in Class-III or Class-IV category.

5. Affidavit in reply of the respondent No. 2 dated 24.2.2014, page-65, would show that the applicant was wait listed in the register of nominees of freedom fighter. At the relevant time, 311 candidates were enlisted and the applicant was at Sr. No. 202. As he was only SSC passed, 10 other candidates having higher qualification were selected for the post of Talathi. As per the Government Resolution dated 31.5.1993 and Circular dated 4.3.1991, nominees of the freedom fighter were required to be considered sympathetically. However, there was no reservation quota and, as such, the present Original Application deserves to be dismissed.

6. Learned Advocate for the applicant made oral submission, as well as, filed written notes of arguments.

7. Learned Presenting Officer submitted that now in view of the established principle of law by the Hon'ble Supreme Court of India, there cannot be any appointment on sponsoring the names, but there would be open competition between the horizontally reserved category candidates and, as such, the claim of sponsorship earlier framed by the State of Maharashtra for the nominees of freedom fighter, as well as, for the nominees of Project Affected Persons stood repealed and the applicant is now required to compete in the open competition in response to the public advertisement those were issued or would be issued in future by the different departments.

8. Learned Advocate for the applicant relied on the decision in **W.P. No. 7955/2006 [Shri Sachin Subhash Hundekari Vs. the State of Maharashtra & Ors.]** dated 14th March, 2008, a copy of which is placed on record at Exhibit 'C' page-12. Perusal of the same it would show that as per the scheme prevailed at that time the directions were issued by the Hon'ble High Court for

absorption of the petitioner therein on the basis of nomination. However, the full bench of the Hon'ble High Court in the case of **RAJENDRA PANDURANG PAGARE AND ANR. VS. STATE OF MAHARASHTRA reported in 2009 (4) Mh.L.J. page-961**, had occasion to deal with the aspect of sponsoring the name of reserved category candidate on the basis of seniority in the register without open competition. On the basis of catena of Hon'ble Supreme Court judgments detailed therein the full bench has now held that such sponsorship is against the constitutional mandate and the same cannot be allowed.

9. In view of the above facts, the present Original Application is dismissed without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

PLACE : AURANGABAD.

DATE : 6TH FEBRUARY, 2019.