

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

967 WRIT PETITION NO.10360 OF 2023

PADMAKAR MOHANRAO HANMANTE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Ashish Hazari h/f. Chalak Amol Balasaheb
AGP for Respondents/State : Mr. P.S. Patil
Advocate for R/2 : Mr. S.S. Dande

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**
DATE : 23rd August, 2023

PC. :-

1. The Petitioner is at serial no.2 in the waiting list in response to the selection process that was conducted by the MIDC vide the advertisement dated 17.07.2019. He belongs to the SC (General) category. Serial No.1 in this category has already been appointed. He points out internal page 3 from the select list dated 07.03.2022, pertaining to the reservation for Ex-servicemen. Two posts of Pump Operators are available. There is a categorical noting that not a single Ex-servicemen candidate was available. The Petitioner does not belong to the Ex-servicemen category. He, however, points out from a communication dated 21.01.2023 addressed by the Respondent No.3-General

Manager to the Director of the Sainik Welfare Board (Sainik Kalyan Vibhag) in which he has referred to the following portion:

“I. The Vacancies reserved for ex-servicemen in respect of Class III posts and Class IV posts should not be released to any general candidates until and unless the appointing authority has (a) obtained a certificate regarding "Non-availability of ex-servicemen" from the employment Exchange, Zilla Sainik Board, Regional Selection Board or the Maharashtra Public Service Commission, depending upon the nature of the job and (b) recorded a certificate that such a "Non-Availability" certificate has been obtained.

II. Individual cases of release of vacancies reserved for ex-servicemen should be referred by the various appointing authorities lower than the Government to the concerned Administrative Departments of the Mantralaya and such post should be filled by general candidates only with the approval of the concerned Administrative Departments.”

2. We find that the Petitioner has an arguable case.

3. Issue notice to the respondents, returnable on 25.09.2023. The learned AGP waives service of notice on behalf of Respondent No.1. The learned advocate Mr. Dande waives service of notice on behalf of Respondent No.2. He has referred to clause-6 of the advertisement which reads thus:

6. समांतर आरक्षण हे सामाजिक आरक्षणांतर्गत कपीकृत असून ते त्या-त्या सामाजिक आरक्षणाच्या गटातून भरण्यात येते.

4. Until further orders, one post of Pump Operator which was allocable to the Ex-servicemen category, shall not be filled in.
5. All office objections to be removed within three weeks.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]