

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

WRIT PETITION NO. 749 OF 2002

WITH

WRIT PETITION NO.125 OF 2003

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WRIT PETITION NO. 749 OF 2002

Khan Yusuf Aijaz S/o. Md. Abbas Khan .. Petitioner
Age-32 years, Occu-Service,
R/o.Parbhani, Dist. Parbhani,
Behind Shahi Majid, Parbhani.

Versus

1. The State of Maharashtra .. Respondents
2. Chairman,
Aurangabad Divisional
Subordinate Service Selection Board,
Aurangabad, Dist. Aurangabad.
3. Secretary,
Aurangabad Divisional
Subordinate Service Selection Board,
Aurangabad, Dist. Aurangabad.
4. Dhamale Madhukar Janardhan,
Age-30 years, Occu- Service,
5. Mahajan Jintedra Shavan,
Age-30 years, Occu-Service,
6. Chinchole Jintedra Janardhan,
Age-32 years, Occu-Service,

7. Rathod Vilas Gopinath,
Age-33 years, Occu-Service,
8. Utale Dattakumar Pratapsingh,
Age-33 years, Occu-Service,
9. Joshi Gajanan Chandrakant,
Age-34 years, Occu-Service,
10. Jagtap Shekhar Shantaram,
Age-32 years, Occu-Service,
11. Kamale Rajkumar Ramlal,
Age-32 years, Occu-Service,
12. Chavan Bhausahab Bhikanrao,
Age-32 years, occu-Service,
13. Patil Praveenchanra Madhavrao,
Age-30 years, Occu-Service,
14. Kalam Praveenkumar Shriram,
Age-32 years, Occu-Service,
15. Shahajgadkar Deelip Sakharam,
Age-35 years, Occu-Service,
16. Ranmade Dhondiba Rambhau,
Age-32 years, Occu-Service,
17. Bhatti Rahul Chandrakant,
Age-32 years, Occu-Service,
18. Godbole Lokdaji Nagorao,
Age-32 years, Occu-Service,

Respondent Nos.4 to 18 all
Occu-Service,

To be served with Secretary
Divisional Subordinate Service
Selection Board, Aurangabad.

19. Chief Executive Officer,
Zilla Parishad Parbhani,
Tq. Parbhani, Dist. Parbhani.
20. Chief Executive Officer,
Zilla Parishad, Beed.
21. Chief Executive Officer,
Zilla Parishad, Aurangabad.
22. Chief Executive Officer,
Zilla Parishad, Osmanabad.

**WITH
WRIT PETITION NO.125 OF 2003**

- . Kulkarni Nandkumar S/o. Hanmantrao, .. Petitioners
Age-33 years, Occu-Service,
R/o. C/o. P.S.Auradkar, Janki Appartment,
Indrapratha Hanumannagar, Nanded,
At & Post Tq. Dist. Nanded.
2. Karad Sopan S/o. Bhagwantrao,
Age-37 years, Occu-Service,
R/o.C/o. Datta Kunj Vidya Nagar,
Back to Navin Madhyamik Vidyalaya,
Parli Vaijanath, Tq. Parli,
Dist. Beed.
3. Kande Bharat S/o. Madhavrao,
Age-34 years, Occu-Service,
R/o.C/o.Sharma Nivas Shivramnagar,
Vasmat Road, Parbhani.

4. Manisha D/o. Sudhakar Kulkarni,
Age-32 years, Occu-Nil,
R/o.C/o. C.M.Kulkarni
Near Gas Agencies,
Nutan Vasahat, Ambad,
Dist. Jalna.

Versus

1. The State of Maharashtra .. Respondents
2. Chairman,
Aurangabad Divisional
Subordinate Service Selection Board,
Aurangabad, Dist. Aurangabad.
3. Secretary,
Aurangabad Divisional
Subordinate Service Selection Board,
Aurangabad, Dist. Aurangabad.
4. Dhamale Madhukar Janardhan,
Age-30 years, Occu- Service,
5. Mahajan Jintendra Shavan,
Age-32 years, Occu-Service,
6. Chinchole Jintendra Janardhan,
Age-34 years, Occu-Service,
7. Rathod Vilas Gopinath,
Age-35 years, Occu-Service,
8. Utale Dattakumar Pratapsingh,
Age-32 years, Occu-Service,
9. Joshi Gajanan Chandrakant,
Age-34 years, Occu-Service,

10. Jagtap Shekhar Shantaram,
Age-34 years, Occu-Service,
11. Kamale Rajkumar Ramlal,
Age-30 years, Occu-Service,
12. Chavan Bhausahab Bhikanrao,
Age-31 years, occu-Service,
13. Patil Praveenchanra Madhavrao,
Age-33 years, Occu-Service,
14. Kalam Praveenkumar Shriram,
Age-34 years, Occu-Service,
15. Shahajgadkar Deelip Sakharam,
Age-29 years, Occu-Service,
16. Ranmade Dhondiba Rambhau,
Age-31 years, Occu-Service,
17. Bhatti Rahul Chandrakant,
Age-33 years, Occu-Service,
18. Godbole Lokdaji Nagorao,
Age-34 years, Occu-Service,

Respondent Nos.4 to 18 all
Occu-Service,
To be served with Secretary
Divisional Subordinate Service
Selection Board, Aurangabad.

19. Chief Executive Officer,
Zilla Parishad Parbhani,
Tq. Parbhani, Dist. Parbhani.

20. Chief Executive Officer,
Zilla Parishad, Beed.
21. Chief Executive Officer,
Zilla Parishad, Aurangabad.
22. Chief Executive Officer,
Zilla Parishad, Osmanabad.

Mr.S.V.Chandole, Advocate for the petitioners.

Mr.S.B.Pulkundwar, AGP for respondent/State.

Mr.P.D.Bachate, Advocate for R-4to6,8,12&17

Mr.N.P.Patil, Advocate for R-7.

Mr.R.N.Dhorde, Sr. Counsel i/b. Mr.N.V. Gaware, Advocate for R-10,13,14to18.

Mr.T.D.Bhosale, Advocate for R-10.

Mr.V.D.Hon, Sr. Counsel i/b. Mr.A.V. Hon, Advocate for R-11.

Mr.D.K. Mule, Advocate for R-15.

Mr.H.K.Mundhe, Advocate for R-20.

Mr.V.R.Sonwalkar, Advocate for R-19.

Mr.S.G.Shinde, Advocate for R-21.

Mr.K.J.Ghute Patil, Advocate for R-22.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.**

DATED : 28.01.2015

ORAL JUDGMENT [PER : A.V. NIRGUDE, J.] :-

1. The petitioners have challenged the selection of concerned respondents as Extension Officers (Zilla Parishad). The selection was done by the Aurangabad Divisional Subordinate Service Selection Board. The petitions are pending since 2002-2003. Many changes took place since then. The Aurangabad Divisional Subordinate Selection Board is no more functioning now. It is

virtually replaced by the District-wise Selection Committee headed by the Collector and C.E.O. of the Zilla Parishad. The petitioners raised serious objection regarding the procedure which was followed by the Committee while selecting the concerned respondents. The petitioners mainly alleged that the procedure was not properly followed and that had caused prejudice to them. The selection process involved two stages. First stage was of written examination in which the petitioners were successful. Even the respondents who were selected were also successful. Thereafter, the successful candidates were to face oral interview. It is, thereafter, the result of the selection process would be known to all. When the result of selection process was announced, the petitioners found that they were not selected. They wanted to know as to whether they secured less marks than the selected candidates. The request was turned down on the ground that such information was not available to the candidates. The petitions were filed thereafter and they were admitted.

2. At the time of admission of the writ petitions, it was observed by learned Predecessors that the fact that mark-list of written examination was not provided to the candidates would be a flaw in selection process etc. Rather belatedly these petitions are taken up for

hearing. We went through the pleadings of the parties and the only question that arose for our consideration is - whether the selection process has been seriously flawed?

3. As said above the main grievance of the petitioners was that they were not even informed about their marks. As said above the selection process was of two stages and at each stage separate marks were given to the candidates. The respondents also admitted this fact. It is mentioned in the affidavit-in-reply that for written examination 180 marks were assigned and for oral examination 20 marks were assigned. It is mentioned further that in order to keep selection process free from influence the marks secured in the written examination were not even informed to the Members of the Interview Board. The marks of the candidates secured in written examination were kept separate. The mark-list of oral interview was also separately maintained. Both these lists were then sent to the Deputy Director of Economics and Statistics. He then made total of these marks and announced the list of successful candidates. This list consisted of number of candidates in proportion of 1:1 to the vacancies. In view of this, the list of 15 candidates was published as successful candidates. The entire procedure so followed was explained in the affidavit-in-reply of the respondents.

4. When the arguments were heard, we asked the respondents to produce the record, so as to find out whether the marks secured by unsuccessful candidates were less than the successful candidates. Despite giving sufficient opportunity, record was not produced before this Court, therefore, there is reason to believe that there could have been some candidates who secured more marks and yet they were not selected. We are, however, not arriving at such conclusion and not recording any finding to that effect but we are constrained to record our finding that the procedure that was followed and what was conveyed to the Court is not free from doubt. We can even observe that the procedure that was followed was not quite transparent. Nonetheless, we are not inclined to disturb the selected candidates. Some of them are even promoted. Out of the petitioners, following three petitioners are still interested for the post of Extension Officer (Education), Zilla Parishad. They are as under:-

i.	Khan Yusuf Aijaj S/o. Md. Abbas Khan	petitioner in W.P. No. 749 of 2002
ii.	Nandkumar Hanmantrao Kulkarni	Petitioner No.1 in W.P. No.125 of 2003
iii.	Manisha Sudhakar Rao Kulkarni	Petitioner No.4 in W.P. No.125 of 2003

5. Other petitioners have already secured other employment and they are not interested in the posting. In view of this, we at the most can direct respondent Nos.19 to 22 to allow above mentioned petitioners to apply for the post of Extension Officer (Education), Zilla Parishad, irrespective of their age eligibility. They should be allowed to participate in the competition and if found eligible, they should be preferred over regular candidates.

6. The Writ Petitions are allowed in above terms. Rule made absolute accordingly. No costs.

7. The record produced by the respondents before the Court is handed over to learned A.G.P.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]