

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1181 OF 2015

RAJENDRA BHAGWAT GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. D. P. Palodkar
A.G.P. for respondent Nos. 1 and 2 : Mr. K. J. Ghute Patil
Advocate for respondent Nos. 3 to 6 : Mr. S. S. Tope
Advocate for respondent Nos. 7 and 9 : Mr. D. A. Naik

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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 14th JULY, 2015

P.C. :-

1. Mr. Palodkar, the learned counsel for the petitioner states that pursuant to the advertisement, the petitioner applied for the post of Live Stock Supervisor from open category. The learned counsel submits that the petitioner fulfills all the eligibility criteria that is laid down in the advertisement. The petitioner appeared in the examination and has got highest marks. However, his name does not appear in the selection list only on the ground that the petitioner, on the date of verification of documents, did not produce MS-CIT certificate. The learned counsel submits that possessing MS-CIT certificate was not a condition for eligibility of a candidate. As per clause 8.4 of the advertisement, relaxation was given for producing the said MS-CIT certificate within two years from the date of appointment. The learned counsel submits that even in the advertisement, the eligibility criteria was laid down for

the post of Live Stock Supervisor. The said eligibility criteria did not lay down possessing MS-CIT certificate whereas, in case of some of the posts, MS-CIT certificate was one of the eligibility criteria such as for Contractual Gramsevak. The learned counsel submits that when the advertisement itself did not lay down any such condition that the candidate should possess MS-CIT certificate, then denial of right of the petitioner to be selected on the ground that the petitioner did not possess MS-CIT certificate is erroneous. The petitioner, in December, 2014, was issued with the MS-CIT certificate also. According to the learned counsel, the petitioner fulfills all the relevant criteria, as such, deserves to be given appointment as he has topped the merit in the written examination.

2. Mr. Tope, the learned counsel for respondent nos. 3 to 6 submits that Clause 16 of the advertisement lays down that necessary instructions that would be received, will be considered and as per clause 6.1, all the documents were required to be submitted at the time of verification of documents. The learned counsel submits that vide notification dated 13.02.2014 published in official gazette, there is an amendment to the Rules namely, Maharashtra Zilla Parishad Service (Appointment) Rules, 1967, more particularly, Sub-Clause (4) of Appendix-2, which is specifically meant for Live Stock Supervisor and it lay down that the person should have the MS-CIT certificate.

3. We have considered the submissions canvassed by the learned counsel for the respective parties. If the advertisement is read as a whole, then naturally the arguments of Mr. Palodkar, the learned counsel, deserve consideration. However, much prior to the advertisement, there is an amendment to the recruitment Rules itself. By virtue of amendment to Sub-Clause (4) of Appendix-2 of Maharashtra Zilla Parishad Service (Appointment) Rules, 1967, possessing MS-CIT certificate is mandatory. The arguments of the learned counsel for petitioner, that the Government Resolution gives relaxation for producing MS-CIT certificate, cannot be sustained in the light of the amendment to the Rules made in February, 2014. Even otherwise, the said Government Resolution is of the year 2003.

4. It is not disputed that on the date of verification of documents, the petitioner did not possess MS-CIT certificate.

5. In the light of the above, the writ petition stands disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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