

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

WRIT PETITION NO.5722 OF 2014

Laxman s/o. Raghunath Nimgale,
Age: 54 Years, Occu. Service,
R/o. Adawad, Taluka Chopda,
District Jalgaon

PETITIONER

VERSUS

Zilla Parishad, Jalgaon,
Through its Chief Executive
Officer

RESPONDENT

...
Mr. S.R.Barlinge, Advocate for the Petitioner
Mr. Vijay Sharma, Advocate for Respondent / Sole.
...

**CORAM: S.S.SHINDE &
A.M.BADAR, JJ.**

Reserved on : 02.09.2015
Pronounced on: 16.09.2015

ORDER: [Per S.S.Shinde, J.]:

1] This Writ Petition takes exception to the
impugned Judgment and Order dated 27th March, 2014
passed by the Divisional Commissioner, Nashik Division,
Nashik in Appeal No.01/2014.

2] The learned counsel appearing for the petitioner submits that, the petitioner had applied for Class-III post on the Establishment of the respondent, initially *vide* his application dated 14th February, 1991. However, though the vacancy of Tracer was available, the petitioner was informed that, the vacancy was not available, and his application cannot be considered. It is further submitted that, the petitioner sought information under Right to Information Act [in short 'RTI Act'], by filing application dated 11.12.2006 about the vacancies available during the period 1991 to 1994 in the Zilla Parishad, Jalgaon, and he received the information on 1st January, 2007 that, the post of Tracer was available at the relevant time. It is submitted that, during the period from 1991 to 1994, the posts of Tracer were available, and total 8 posts were vacant, and therefore, the petitioner was entitled to be considered directly for appointment on a vacancy meant for the candidate, belonging to the Project Affected Persons category, since he had applied from that category and was holding necessary qualification. It is further submitted that, though the petitioner made several representations to the respondents, those representations were not considered favourably. Therefore, he filed an Appeal, however, the

Appellate Authority rejected the Appeal on unsustainable ground. Therefore, he submits that, Petition may be allowed.

3] On the other hand, the learned counsel appearing for the respondent submitted that, the petitioner was appointed in Class-IV post. He accepted the said appointment without any hesitation. The petitioner has filed this Petition in the Year 2014. There is inordinate delay in availing the remedy of Appeal, and also for filing Writ Petition. It is submitted that, there was no vacancy as stated by the petitioner at the relevant time. It is further submitted that, while rejecting the Appeal filed by the petitioner, the Appellate Authority has assigned the cogent reasons, therefore, Writ Petition may be rejected.

4] We have heard the learned counsel appearing for the petitioner, and the learned counsel appearing for the respondent. With their able assistance, we have perused the grounds taken in the Petition, annexure thereto, and the reasons assigned in the impugned Judgment by the Appellate Authority. Admittedly, the petitioner, for the first time, sought information under RTI

on 11.12.2006. The delay of more than 12 years even seeking information under RTI Act about the position of vacancy during the period from 1991 to 1994 cannot be countenanced and condoned. Admittedly, the petitioner was appointed in Class-IV post. The petitioner did not raise any grievance at the relevant time, and accepted the said post. The petitioner has not brought any material on record to show that, he has any legal right to claim the post of Tracer at the relevant time. On the contrary, the petitioner accepted Class-IV post. Upon perusal of the reasons assigned by the Appellate Authority, which are keeping in view the record maintained by the respondent, it is specifically observed that, when the petitioner filed an application on 14th February, 1991, the respondent by letter dated 04.04.1991, communicated to the petitioner that, there is no post of Junior Assistant Tracer available for the candidates, belonging to Project Affected Category, and therefore, his application to appoint him on the said post cannot be considered. It was open for the petitioner to take exception to the said communication, however, the petitioner kept mum for 15 years and then filed Appeal and thereafter Writ Petition after 25 years.

5] In the light of above, the petitioner is not entitled for any relief, hence Writ Petition stands rejected.

Sd/-
[A.M.BADAR]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE

DDC