

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 7536 OF 2004
WITH CA/4904/2006 IN WP/7536/2004RAMKISHAN NAMDEORAO ADUDE
VERSUS
STATE OF MAH & ORS

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Advocate for Petitioner : Mr. S V Kurundkar
AGP for Respondents-State: Mr. G. K.Thigale
Advocate for Respondent No.3 : Mr. S. N. Rodge h/for Mr. J. N. Singh

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**CORAM : S. V. GANGAPURWALA &
V. L. ACHLIYA , JJ.****DATE : 6th February, 2015****PER COURT :**

1. Mr. Kurundkar, the learned counsel for the petitioner strenuously contends that the petitioner had applied pursuant to the advertisement dated 6th August, 2013 and subsequent advertisement dated 14th October, 2013 for the post of Assistant Chemical Analyzer. The petitioner belongs to OBC category. The petitioner had also filed copy of Non Creamy Layer Certificate, however, an objection was raised that it is not of the recent year. The petitioner again filed Non Creamy Layer Certificate of the recent year. The petitioner had applied pursuant to both the advertisements and name of the petitioner appeared in the selection list pursuant to both the advertisements. However, surprisingly, in the final selection list, name of the petitioner did not appear.

2. According to the learned counsel for the petitioner, the MPSC has camouflaged the selection list. Along-with affidavit in reply, which list is

filed. The same is camouflaged to suit their purpose. Name of respondent No.2 did not appear in the select list, however he was issued appointment order. According to the learned counsel, no transparency is maintained in the selection process. The person whose name did not appear in the select list has been issued appointment order which is illegal and the same is not plausible.

3. According to the learned counsel, lame excuse is given by the respondents stating that selection list is in two sheets and not one sheet. In fact, the selection list of general category was also of one sheet only which is produced by the petitioner.

4. Learned AGP submits that the procedure has been rightly followed. Two advertisements were issued and those who have applied pursuant to both the advertisements, their list was also prepared. Two advertisements i.e. special advertisement and general advertisements were issued and performance of all the candidates were considered. Interview has been conducted by Expert Committee and the petitioner could not get better marks in the interview. Respondent No.3 got more marks in the interview and as such he was selected.

5. We have considered the submissions canvassed by the learned counsel for the respective parties.

6. It is a fact that the petitioner had applied pursuant to both the advertisements so also the respondent no. 3. Foot note has been given

below the result of general category. The respondent No.3 was at Sr. No. 5. In the foot note, it is clearly mentioned that candidates who have passed in both the categories i.e. general as well as reserved categories have been considered and the respondent No.3 is selected from Special Backward Category. The petitioner has secured less marks in the interview. Selection committee consists of experts of the particular field. No malafide can be alleged against them nor the same is spelt out. In the affidavit in reply the MPSC has clarified about the foot note and the selection procedure. We do not find illegality in the same. As such, the writ petition is disposed of. Rule discharged. Civil application also stands disposed of.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC