

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

WRIT PETITION NO. 12036 OF 2015

SUSHEEN MAHADEVRAO GAJARE. **..PETITIONER.**

VERSUS

THE STATE OF MAHARASHTRA
AND ANOTHERS. **..RESPONDENTS.**

...

Advocate for Petitioner : Mr.Anup R Nikam
AGP for Respondents/State: Mr.K.D. Munde.

...

CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: 17th DECEMBER, 2015.

PER COURT :-

1. Heard learned Counsel for the petitioner. He invited our attention to the pleadings in the petition, annexures thereto, conditions in the advertisement and other documents placed on record and submits that, the petitioner is fully qualified for the post which is advertised. It is submitted that the petitioner possesses degree of MDS and also has at his credit experience of working as lecturer. He submits that since the working of the petitioner as

lecturer itself presupposes that, he he possesses master's degree i.e. MDS. He also submits that the documents that petitioner possesses requisite experience have been submitted. At the cost of repetition, he submits that this Court may take a sympathetic view and allow the petitioner to appear for the interview, which is scheduled to be held till 30th December, 2015.

2. On the other hand, learned AGP appearing for the respondents / State submits that, while filling in the On-line application, the petitioner did not mention MDS degree. As a result, while scrutinizing the application forms, the petitioner could not be called for interview.

3. We have heard learned Counsel for the petitioner and the learned AGP for the respondents / State. With their able assistance, perused the pleadings in the petition, annexures thereto and also the advertisement and more particularly, Clause 6 of the said advertisement. Admittedly, the petitioner did not mention in his application form, which was filled in On-line, that he possesses MDS degree. Upon careful perusal of the conditions in the advertisement, it

appears that there is no any discretion to the authority to address the situation which has arisen in the case of the petitioner.

4. In that view of the matter, we find it difficult to invoke extraordinary writ jurisdiction under Article 226 of the Constitution of India and direct the respondents to allow the petitioner to appear for the interview. During the course of the hearing, learned Counsel for the petitioner has pressed into service exposition of the Supreme Court in case of ***Dheeraj Padalalu (Dr.) & another vs. State of Maharashtra & others***¹ and submits that, there is no specific clause for MDS and since the such clause was not there in form, petitioner cannot be held responsible for the same and the respondents / authorities should allow the petitioner to appear for interview.

5. Upon careful perusal of the **Exh.D** at pages 28 to 31 of the compilation of the petition and more particularly page 29, we found that there is a clause for mentioning qualifications. The petitioner has mentioned in the said

¹ 2003(4) Bom.C.R.560;

clause that, he possesses SSC, HSC and BDS degree. Therefore, we do not find any force in the argument of the learned Counsel for the petitioner that, there is no clause to mention MDS.

6. For the reasons aforesaid, the petition sans merits and the same stands rejected.

At this stage, learned Counsel for the petitioner makes an oral prayer that, the petitioner may be allowed to pursue the respondents. However, in view of the observations made herein before, we are unable to persuade ourselves to grant such liberty to the petitioner.

(P.R. BORA, J.)

(S.S. SHINDE, J.)