

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 82 & 260 OF 2015

WRIT PETITION NO. 82 OF 2015

Shri Sidhyesh @ Siddesh K. Naroji,
S/o Mr. Krishna Naroji,
aged 30 years,
R/o H.No.378/1, Oxelbag @ Vashalbag,
Post Dhargal,
Dhargal, Pernem Goa. Petitioner

V e r s u s

1. State of Goa,
Through Chief Secretary,
Alto, Porvorim Goa.
2. The Director,
Directorate of Panchayats,
Junta House, North Goa,
Panaji Goa.
3. The Secretary,
Village Panchayat Dhargalim,
Pernem Goa. ... Respondents

Ms. Smita S. Gawas, Advocate for the petitioner.

Ms. Priyanka Kamat, Addl. Government Advocate for respondent nos.
1 and 2.

Mr. Salil Saudagar, Advocate for respondent no.3.

AND
WRIT PETITION NO. 260 OF 2015

Shri Gauresh V. Raul,
of major age, Indian National,
r/o Gaowada, Dhargal,
Pernem Goa. Petitioner

V e r s u s

1. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim Goa.
2. Village Panchayat of Dhargal,
through its Secretary,
having office at Panchayat House,
Dhargal, Pernem Goa
3. Shri Siddhesh Krishna Naroji,
r/o H.No.378, Oshalbag,
Dhargal, Pernem Goa.
4. The Director,
Directorate of Panchayats,
Government of Goa,
Junta House,
Panaji Goa.

... Respondents

Mr. J. J. Mulgaonkar, Advocate for the petitioner.

Mr. Pravin Faldessai, Addl. Government Advocate for respondent nos. 1 and 4.

Mr. Salil Saudagar, Advocate for respondent no.2.

Ms. Smita Gawas, Advocate for respondent no.3.

**Coram:- F. M. REIS &
K. L. WADANE, JJ**

ORDER RESERVED ON : 15.07.2015

ORDER PRONOUNCED ON : 09.10.2015

ORDER (Per K. L. Wadane, J)

Both the petitions are concerning with the selection process and the selection of the petitioner in Writ Petition No.82 of 2015 for the post of librarian.

2. The brief facts of the case may be stated as follows :

The Village Panchayat Dhargalim, Pernem, published an advertisement in the daily newspapers 'Tarun Bharat' (Marathi) and O'HeraldO (English) for the appointment of librarian in the Village Panchayat Dhargalim, Pernem.

3. In response to the advertisement, the petitioners have applied for the post of librarian along with necessary documents which are required for the said post as per the advertisement. Both of them have received the letter of interview and they appeared for the oral interview in the office of Village Panchayat Dhargalim, before the member of Departmental Selection Committee (DSC) consisting of Mr. Amir Parab, B.D.O., Mr. Sachin Morajkar, Junior Engineer, North Goa Zilla Panchayat and Mrs. Vinkita V. Naik, Sarpanch of Village Panchayat Dhargalim.

4. As per the advertisement, the essential qualification for the selection on the post of librarian is as follows :

- (a) SSCE or Equivalent,
- (b) Six weeks library certificate course,
- (c) Knowledge of Konkani,

In addition to that a desirable qualification is as follows :

- (1) Knowledge of Marathi and English,

(2) Degree (Diploma in Library Science of recognized University),

(3) Experience, if any.

(4) Age not exceeding 40 years (Age relaxation to the Government servants, or person belonging to ST and CFF candidates up to five years and OBC candidates up to three years, PH candidates up to five years).

5. Pursuant to the advertisement, a call letter was issued to both the petitioners and they were interviewed and the petitioner in Writ Petition No. 82 of 2015 namely Mr. Sidhyesh Naroji secured highest marks of 61 whereas the petitioner in Writ Petition No. 260 of 2015 namely Mr. Gauresh Raul secured 56 marks. The DSC had taken interview of almost 30 candidates and considering their overall performance, the petitioner Mr. Sidhyesh stood first and the petitioner Mr. Gauresh stood second in the order of merits.

6. It is the contention of the petitioner Mr. Sidhyesh that inspite of the interview, no results were communicated to him. So ultimately he has to seek such information or result of the interview under the R.T.I. And as per the information furnished by the Village Panchayat Dhargalim, he was selected by the DSC for the post of librarian. So inspite of his selection, the Village Panchayat Dhargalim has not issued appointment letter to him. Thereafter, he made

representation to the Sarpanch and other concerned authorities and requested them to issue appointment order pursuant to his selection.

7. As against this, the petitioner in Writ Petition No. 260 of 2015 namely Mr. Gauresh has challenged the selection process and selection of the petitioner Mr. Sidhyesh for want of essential qualification for being appointed as a librarian mostly on the ground that the period of the Course in Library and Information Science has not been mentioned in the certificate. As against this, the petitioner Mr. Gauresh having better qualification than Mr. Sidhyesh. Secondly, the Sarpanch being one of the members of DSC has given highest marks to the petitioner Mr. Sidhyesh though he is having minimum qualification compared to the qualification of Mr. Gauresh. Therefore, the petitioner Mr. Gauresh has prayed to cancel the appointment of the petitioner Mr. Sidhyesh and impliedly he being the second in the merit list, he be appointed as a librarian.

8. We have heard the arguments of Ms. Smita S. Gawas, learned counsel appearing for the petitioner in Writ Petition No. 82 of 2015 and Mrs. P. Kamat, learned Addl. Government Advocate appearing for respondent nos. 1 and 2 and Mr. Salil Saudagar, learned counsel appearing for respondent no.3.

9. We have also heard the arguments of Mr. J. Mulgaonkar,

learned counsel appearing for the petitioner in Writ Petition No. 260 of 2015 and Mr. P. Faldessai, learned Addl. Government Advocate appearing for the respondent nos. 1 and 4. Considering the facts and the arguments advanced by both the sides, let us examine the stand taken by the petitioner in Writ Petition No. 260 of 2015.

10. It is argued by Mr. Mulgaonkar, that the petitioner Mr. Sidhyesh has no requisite qualification in reference to the essential qualification mentioned in the advertisement however from the record, it reveals that the petitioner Mr. Sidhyesh has all requisite qualifications as mentioned in the advertisement. The only aspect to be examined is that the period of diploma or course is not mentioned in the certificate issued to Mr. Sidhyesh with regard to six weeks library certificate course.

11. Looking to the relevant certificate, it appears that the certificate is issued by the Library Directorate, State of Maharashtra on 05.08.2013 in reference to the examination held in 2013. The certificate discloses that the petitioner Mr. Sidhyesh secured 403 marks out of 700 marks and placed in second class. In this certificate, no period of library certificate course has been mentioned. But for that no blame could be given to the petitioner Mr. Sidhyesh because the authority who has issued the certificate has not mentioned the period of course. When the petitioner

Mr. Gauresh has filed the petition challenging the selection of Mr. Sidhyesh at that time and during the pendency of the above two petitions, the petitioner Mr. Sidhyesh has obtained such information by applying to the concerned authority under R.T.I. Act and during the course of arguments such information was placed before us. Therefore, it is taken on record and marked 'X' for the purpose of identification.

12. On scrutiny of such papers, it appears that the petitioner Mr. Sidhyesh requested the concerned authority to supply the information with regard to the duration of the course of library conducted by the Library Directorate, State of Maharashtra. In response, the concerned authority has replied that the duration for the course of librarian certificate examination 2013 is from 15.04.2013 to 30.05.2013 for the total period of six weeks and the examination for the said course was conducted on behalf of the Government of Maharashtra, Library Directorate, State of Maharashtra from 03.06.2013 to 08.06.2013. So from the information supplied to Mr. Sidhyesh, it is very much clear that the diploma/course which he has undergone was for a period of six weeks which is the exact minimum qualification required for the post of librarian. So the first ground of objection raised by the petitioner Mr. Gauresh has no merits.

13. Turning to the another aspect that the Sarpanch was one of the members of the selection committee has given better marks to Mr. Sidhyesh than Mr. Gauresh. In this behalf, we are of the opinion that giving particular marks to a particular candidate is depends upon subjective satisfaction of the member of the selection committee. Merely because the petitioner Mr. Sidhyesh secured highest marks in oral interview is no ground to disqualify him from the appointment as a librarian.

14. Mr. Mulgaonkar, learned counsel appearing for the petitioner in Writ Petition No. 260 of 2015 has argued that the petitioner Mr. Gauresh has secured first class in the library course whereas Mr. Sidhyesh secured second class. Therefore, Mr. Gauresh has better qualification than Mr. Sidhyesh. We do not agree with the submission of Mr. Mulgaonkar, because the performance of a particular candidate has to be assessed on the basis of overall records and marks secured during the interview. The petitioner Mr. Sidhyesh has more educational qualification as he is an graduate whereas Mr. Gauresh is SSCE.

15. Looking to the above aspect, we are of the opinion that the petitioner Mr. Sidhyesh has essential qualification for being appointed as a librarian and he is selected as he has secured highest marks in the interview.

16. Mr. Mulgaonkar, further argued that the selection was 100% on the viva voce is improper and therefore, it has to be set aside. We do not agree with the submission of Mr. Mulgaonkar, simply because the petitioner Mr. Gauresh has participated in the selection process and appeared in the interview and now he cannot question the criteria determined and fixed by the selection committee for the purpose of appointment of the librarian. Therefore, that question is also out of consideration.

17. Mr. Saudagar, learned counsel appearing for the Village Panchayat has argued that the petitioner Mr. Sidhyesh is selected being secured highest marks amongst other candidates appeared in the interview. However, for want of funds the Panchayat decided to stay the appointment of the petitioner for some time. Mr. Saudagar, learned counsel has argued that as soon as the funds are released by the State Government, they would issue appointment letter to the petitioner Mr. Sidhyesh. However, at present due to financial crisis, it is difficult for the Village Panchayat to issue appointment letter to the selected candidate. In response to the arguments advanced by Mr. Saudagar, Mr. Faldessai, learned Additional Government Advocate has made a statement that in case the Village Panchayat Dhargalim submits their proposal to the State Government for the grant, the State Government will consider it in accordance with law.

18. Looking to the contention of both the sides, the material placed on record and after hearing both the sides, we are of the opinion that the petitioner in Writ Petition No. 82 of 2015 is successful candidate and selected for the post of librarian pursuant to the advertisement given by the Village Panchayat Dhargalim. As against this, there is no material placed on record to show that the selection process was malafides and it is not established that the petitioner Mr. Sidhyesh is not having essential qualification in terms of the advertisement. Therefore, we find no illegality in the selection process of the Departmental Selection Committee.

19. In view of the above discussions and statement made by Mr. P. Faldessai, learned Additional Government Advocate, we direct the respondent no.1 to consider the proposal of the Village Panchayat Dhargalim for the grant of funds as expeditiously as possible in accordance with law. After the availability of grant, the Village Panchayat Dhargalim shall proceed to appoint the petitioner in Writ Petition No. 82 of 2015 in accordance with law.

20. With these directions, we dispose of both the above petitions with no order as to costs.

K. L. WADANE, J

F. M. REIS, J

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