

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8192 OF 2004

Kailash Subhash Wani & Ors.	...	Petitioners
vs.		
Commissioner of Sugar, State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 2474 OF 2014

Vikas Patil	...	Petitioner
vs.		
State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 4797 OF 2005

Kailash Subhash Wani & Ors.	...	Petitioners
vs.		
Commissioner of Sugar, State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 5885 OF 2005

Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd.	..	Petitioner
vs.		
Commissioner of Sugar & Ors.	..	Respondents

WITH
WRIT PETITION NO. 1981 OF 2014

Shri Ashok Shivaji Rao Salunkhe & Ors.		Petitioners
vs.		
Maharashtra Rajya Sahakari Sakhar Karkhana Sangh		Respondents

WITH
WRIT PETITION NO. 2015 OF 2014

Mr. Nitin Rajaram Patil & Ors. .. Petitioners
vs.
State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 2168 OF 2014

Mr. Hemant Jaywantrao Mane & Ors. Petitioners
vs.
State of Maharashtra & Ors. Respondents

WITH
WRIT PETITION NO. 2171 OF 2014

Mr. Mohan Atmaram Patil & Ors. .. Petitioners
vs.
State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 2788 OF 2014

Shri Jitendra Ranaware .. Petitioner
vs.
The Commissioner of Sugar & Ors. .. Respondents

WITH
WRIT PETITION NO. 244 OF 2015

Hanamant Apparao Rokade .. Petitioner
vs.
The Commissioner of Sugar & Anr. .. Respondents

WITH
WRIT PETITION NO. 245 OF 2015

Nagnath Balasaheb Mohite .. Petitioner
vs.
The Commissioner of Sugar & Anr. .. Respondents

WITH
WRIT PETITION NO. 3174 OF 2014

Shailendra Manik Shelar ... Petitioner
vs.
The Commissioner of Sugar & Ors. Respondents

Appearance:

W.P.No.8192/2004, W.P.No.2474/2014 & W.P.No.2788/2014

Mr. Sugandh B. Deshmukh for the petitioner.

W.P.No.1981/2014

Mr. Ajit Jaywant Kenjale for the petitioner.

W.P.No.2015/2014, W.P. No.2168/2014 & W.P.No.2171/2014

Mr. M.S. Topkar for the petitioner.

W.P. Nos. 244/2015 & 245/2015

Mr. Shreepad Murthy i/b. Abhishek Patil for the petitioner.

W.P.No.3174/2014

Adv. Vrushali Gulwadi for the petitioner.

Mr. A.B.Vagyani, Govt. Pleader & Mr. A.I. Patel, AGP, for the State (in all matters).

CORAM: B.R.GAVAI & A.S.GADKARI, JJ.

DATE : 26^h March, 2015.

P.C. : (Per B.R.Gavai, J.)

Rule. Rule made returnable forthwith with consent of the parties.

2. The petitioners, who are claiming to be the Heads of various Departments in various sugar factories, have approached this Court contending therein that the categorization made by the State Government of only promoting the following categories of heads of departments, namely, Chief Agriculture Officer/Chief Engineer/Secretary/Chief Chemist/Chief Editor/Chief Finance Officer for the purpose of eligibility for empanelment as Managing Directors is not sustainable in law.

3. As per the Scheme framed by the State Government, the State Government conducts written examination as well as oral interviews for preparing a panel of Managing Directors. Only such candidates who are Managing Directors are entitled to be appointed as Managing Directors of the Sugar Karkhana. The present petitioners who are heads of departments (except the ones which are mentioned hereinabove) have approached this Court contending therein that the said categorisation by the State Government, is violative of Article 14 of the Constitution of India.

4. Shri Vagyani, learned Government Pleader submits that the State Government has made this categorisation inasmuch as only the aforesaid departments are entrusted the work which is administrative in nature. It is submitted that since the Managing Director works as the head of administration, it is necessary that only such of the persons who are

having experience in administration should be empaneled.

5. We find that it is not necessary for us to consider the contention raised by Shri Vagyan. The Division Bench of this Court in Writ Petition No.512 of 2004 on 2nd August, 2005, has held thus :-

“10. In the circumstances, we allow both the petitions and direct respondent no.2 – Commissioner for Sugar to hold a written test and thereafter an interview of the two petitioners as well as other persons who may be Heads of the Legal Department or the Safety Department as well as Agricultural Officers. They are also Heads of the concerned Departments and, therefore, they should as well be permitted to appear for the written test and interview. We further direct that if any such persons get selected after the written test and interview, they will be placed in the list of the selected candidates as per the marks secured by them and accordingly, given placement as the Managing Directors.”

The aforesaid order has not been challenged by the State before the Apex Court. In that view of the matter, the said order would bind the State Government.

6. The Division Bench has categorically held that all the heads of the departments who may be heads of the Legal Department or the safety Department as well as Agricultural Officers are entitled to participate in the process of empanelment as Managing Directors. In that view of the matter, the petitions which challenge categorisation

are allowed. It is held that the categorisation made by the State Government as aforesaid is not sustainable in law. All the Heads of Departments of Sugar Factories are held to be entitled to participate in the process of empanelment of Managing Directors.

7. The petitioners in other group of petitions have approached this Court contending therein that the condition which permits the heads of department upper age limit of 50 years is discriminatory. In some of the petitions challenge is to the effect that the upper age limit of 50 years which is applicable to the heads of department and 58 years to such of the heads of departments who also have 2 years' experience of working as Managing Director is patently discriminatory.

8. No doubt, Article 14 permits classification. However, the classification must be reasonable and having nexus with the object for which it is made.

9. In the present case, when a person has experience of head of department for 5 years, the upper age limit for him would be 50 years. However, if a person who has experience of head of department of 5 years and out of that 5 years, two years is of working as incharge Managing Director, he will get the jumping

relaxation by 8 years. We find that there is no nexus with the object for which the classification is made. If the same person works as head of department for 5 years he would have the age limit of 50 years, but by chance, out of that 5 years he works to officiate as an in-charge Managing Director for 2 years, he is entitled upper age limit of 58 years. We find that such a classification would not be permissible under Article 14 of the Constitution.

10. Be that as it may, the ad-interim order passed by this Court on 20th December 2014 such of the persons who were not working as Managing Directors but in charge of heads of departments have been permitted to appear for examination as well as interview. In that view of the matter, we find that in order to avoid any complication, it will be appropriate that all such persons who have been permitted to appear for examination and interview would be considered by the Respondents for the purpose of empanelment. Needless to state that the empanelment would be on merits of the respective candidates and as such merely because a candidate is empaneled would not ipso facto mean that he is appointed as Managing Director.

11. By the aforesaid order dated 20th December, 2014,

though the petitioners were permitted to appear for the examination and interviews, the results were directed to be kept in a sealed envelope and were directed not to be declared until further orders passed by this Court. Since we have held that the petitioners are entitled to participate in the selection process, the Respondent No.2 is directed to finalize the selection process for empanelment in the light of aforesaid directions.

12. We may make it clear that what has been observed hereinabove would not come in the way of the Respondent-State in preparing the rules for empanelment of Managing Directors hereafter which undoubtedly would conform to the mandate of the Constitution and the relevant statutes.

Rule made absolute accordingly. Petitions stand disposed of.

(A.S.GADKARI, J.)

(B.R.GAVAI, J.)