

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Writ Petition No. 269 of 2015

(Shri Lomesh S/o Mansaram Jambhulkar and ors. Vs. The State of
Maharashtra through its Secretary, Dept. of Health and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri P. S. Wanjari, Advocate for the petitioners
Shri N. W. Almelkar, Advocate for respondent nos.3, 4 & 7
Shri A. M. Joshi, AGP for respondent nos. 1, 2 5 & 6
Shri Mokadam, Advocate for Zilla Parishad, Gadchiroli

**CORAM : Smt. V. A. Naik and
P. B. Varale, JJ.**

DATE : 26-11-2015.

Heard.

By this petition, the petitioners challenge the action of the respondent Zilla Parishad, Chandrapur of disqualifying the petitioners for appointment on the posts of Arogya Sevaks. The petitioners have sought a direction to the respondent – Zilla Parishad to consider the candidature of the petitioners for appointment on the posts of Arogya Sevaks by holding them eligible.

In pursuance of an advertisement issued by Zilla Parishad, Chandrapur on 22-8-2014, the petitioners had applied for the posts of Arogya Sevaks(male) from the category of Seasonal Spray Workers having work experience of 90 days. The candidature of the petitioners was, however, rejected by Zilla Parishad, Chandrapur on the ground that the

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petitioners had not worked for more than 90 days as Seasonal Spray Workers, though they had applied from the said category in pursuance of the advertisement. The action of the respondent – Zilla Parishad in rejecting the candidature of the petitioners has been challenged by the petitioners in the instant petition.

It is stated on behalf of the petitioners that the Zilla Parishad has illegally rejected the candidature of the petitioners on the ground that they do not have any experience of working under the National Malaria Prevention Programme though the petitioners have the experience of working for more than 90 days in such programme. It is stated that before 1999, the National Anti Malaria Programme was recognized as the National Malaria Eradication Programme and in the year 2004, the programme was integrated with National Vector Borne Diseases Control and was named as the National Vector Borne Diseases Control Programme. It is stated that the petitioners possess the requisite certificate of having the experience of more than 90 days in the National Vector Borne Diseases Control Programme. It is stated that the said fact could be depicted from the certificates issued by the competent authority i.e. the District Malaria Officer.

On the other hand, it is submitted on behalf of the Zilla Parishad that the petitioners have participated in the selection process by applying for

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the posts earmarked for the Seasonal Spray Workers having more than 90 days experience. The learned counsel for the respondents has referred to the advertisement dated 22-8-2014 in this regard. It is stated that it would be necessary for the petitioners to possess the experience of more than 90 days as Spray Workers. It is stated that the experience of working as Spray Workers for a period of 90 days is necessary and the petitioners do not possess the experience.

Shri Mokadam, the learned counsel for the Zilla Parishad, Gadchiroli, where the petitioners claimed to have worked under the National Vector Borne Diseases Control Programme, states that the petitioners had worked under the said programme, however, the petitioners do not have the experience as Spray Workers. It is stated that the petitioners had not worked as Spray Workers with Zilla Parishad, Gadchiroli and they do not possess any experience as Spray Workers.

On hearing the learned counsel for the parties and on perusal of the advertisement as also the certificates issued by the competent authority in favour of the petitioners, it appears that the relief sought by the petitioners cannot be granted. The advertisement clearly mentions that a candidate would be required to possess an experience of at least 90 days, of working as a Seasonal Spray Worker. Admittedly, the petitioners do not have the

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experience of spraying under the programmes. The said fact could be depicted from the averments in the petition and also from the statements made on behalf of the two Zilla Parishads. Though the petitioners had applied from the category of Seasonal Spray Workers having experience of at least 90 days, the petitioners do not have the experience of spraying at all. In this background, we do not find that Zilla Parishad, Chandrapur committed any illegality in rejecting the candidature of the petitioners. Merely, because the petitioners had worked under the National Vector Borne Diseases Control Programme, it cannot be said that the petitioners are eligible for appointment on the posts of Health Workers (male) earmarked for the candidates having experience of at least 90 days as Seasonal Spray Workers. Also, that the petitioners have applied in pursuance of the advertisement with open eyes. The petitioners had not challenged the advertisement on the ground that the experience of working for 90 days as a Seasonal Spray Worker was not necessary. It is well settled that the selection process cannot be challenged after participating in the same. Since the petitioners did not fulfill the essential condition for participating in the selection process for appointment on the posts of Health Workers(male) from the category of candidates having experience of 90 days as Seasonal Spray Workers, we do not find any illegality in the action of the respondent – Zilla Parishad in rejecting the candidature of the petitioners.

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Since, there is no merit in the writ petition, we
dismiss the same with no order as to costs.

JUDGE

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