

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1688/2014

(MAHABEEJ BAHUJAN KARMACHARI ADHIKARI SANGHATANA, NAGPUR & ANOTHER **VERSUS**
MAHARASHTRA STATE SEEDS CORPORATION LIMITED, MUMBAI & OTHERS)

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

Court's or Judge's orders

Shri V.P. Marpakwar, counsel for the petitioners.
Shri S.G. Loney, counsel for the R-1 & 2.
Shri A.M. Deshpande, counsel for the R-3.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : JULY 21, 2015.

By this petition, the petitioner challenges the appointment of the respondent no.3 on the post of General Manager (Marketing).

According to the petitioner, in pursuance of an advertisement issued by the Maharashtra State Seeds Corporation Limited on 21.08.2013, the petitioner and the respondent no.3 had applied for the post of General Manager (Marketing). In the advertisement, it was mentioned that a candidate applying for the post of General Manager (Marketing) was required to possess a Post Graduate degree/diploma in Business Management/Marketing from a reputed institute. It is the case of the petitioner that the petitioner is duly qualified for being appointed on the post of General Manager (Marketing). It is submitted that though the respondent no.3 was not qualified for the said post, as he does not possess a post graduate degree in agriculture, the respondent nos.1 and 2 for the reasons best known to them, appointed the respondent no.3 on the post of General Manager (Marketing).

The respondent nos.1 and 2 and the respondent no.3 have filed the affidavits-in-reply. It is stated in the affidavits-in-reply that the petitioner has concealed the fact in regard to the issuance of another advertisement of the Maharashtra State Seeds Corporation Limited on 31.10.2013 in The Times of India, Nagpur, Mumbai, Pune and Ahmadabad editions and also in the Deccan Chronicle inviting applications for the post of General Manager (Marketing). It is stated that it was stated in the said advertisement that the candidates who had applied in response to the earlier advertisement dated 21.08.2013 were not required to apply again and their applications would also be considered along with the application submitted in pursuance of the advertisement dated 31.10.2013. It is stated that in the second advertisement, it was clearly stated that in case of deserving candidates, the management reserves the right to relax the condition of qualification and also the condition of upper age limit in respect of the candidates from Maharashtra State Seeds Corporation Limited. It is stated that though the respondent no.3 is not a Post Graduate in Agriculture, since the respondent no.3 was found to be a deserving candidate having senior level experience, the respondent nos.1 and 2 appointed the respondent no.3 on the post of General Manager (Marketing).

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. Admittedly, in the first advertisement and in the second advertisement, the qualification for appointment on the post of General Manager (Marketing) was a Post Graduates degree in Agriculture. Admittedly, the respondent no.3 does not possess a Post Graduate degree in Agriculture. It was, however, mentioned in the second advertisement that in cases of deserving candidate, the management reserves the right to relax the condition of qualification. According to the respondent nos.1 and 2, the respondent no.3 was more deserving than the petitioner and,

hence, the respondent nos.1 and 2 relaxed the condition of qualification in respect of the respondent no.3. Also, we find that the petitioner has not challenged the second advertisement giving an absolute right of relaxing the condition of qualification in respect of deserving candidates. Since the petitioner has not challenged the condition in the second advertisement, the petitioner is estopped from challenging the appointment of the respondent no.3. It is well settled that a candidate participating in the selection process cannot question the process at a subsequent point of time. It would be worthwhile to refer to the judgments of the Hon'ble Supreme Court reported in **(2009)3 SCC 227** (*Amlan Jyoti Borooah Versus State of Assam & Others*) and **(2011) 1 SCC 150** (*Vijendra Kumar Verma Versus Public Service Commission, Uttarakhand & Others*), in this regard. The petitioner cannot be heard to say that the petitioner has not read the advertisement dated 31.10.2013 and, hence, he did not have an opportunity to challenge the condition.

Hence, for the reasons aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

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