

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MCA NO.453/2015 IN WP NO.4876/2014 [D]

[Ravikumar s/o Hiranman Kawale .vs. The Directorate, Municipal Administration and one]

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

Court's or Judge's orders

Shri Anand Parchure, counsel with Shri P.R. Puri, counsel for the applicant,
Shri S.M. Bhagde, AGP for the respondents.

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

DATED : APRIL 27, 2015.

Heard.

By this review application, the applicant seeks a review of the order dated 23.3.2015 in Writ Petition No.4876/2014.

It is stated on behalf of the applicant that the order proceeds on the fact that the petitioner had applied in pursuance of the notice/advertisement issued by the Nagar Parishad on 15.7.2014. It is stated that the petitioner had not applied in pursuance of the said advertisement. It is also stated that there was a recommendation for the upgradation of the petitioner on the post of Sanitary Inspector.

The writ petition was heard in the morning session on 23.3.2015 and since this court was inclined to dismiss the writ petition, the learned counsel for the petitioner Shri Puri asked the court to keep back the matter till 2.30 pm i.e. in afternoon. The matter was kept back but the petitioner was not inclined to withdraw the writ petition and hence the writ petition was dismissed in the afternoon session by the order dated 23.3.2015.

If the petitioner had not applied in pursuance of the notice/advertisement issued by the Nagar Parishad in 2014, as stated on behalf of the Nagar Parishad, the learned counsel for the petitioner could have informed this court about the incorrectness of the statement

made by the counsel for the Nagar Parishad, but the learned counsel for the petitioner did not dispute the position. It is stated in the affidavit-in-reply of the Nagar Parishad at page 85 of the writ petition that only one application was received in pursuance of the public notice dated 15.7.2014 and the said application was made by the petitioner. The petitioner had filed a rejoinder to the affidavit-in-reply filed by the Nagar Parishad. However, it is not stated in the rejoinder that the petitioner had not applied in pursuance of the public notice/advertisement dated 15.7.2014. Now, after the writ petition is dismissed, a review of the order dismissing the petition is sought on the ground that the petitioner had not applied. We would not permit the petitioner to raise this ground in a review application, specially when an assertion was made in the affidavit-in-reply of the Nagar Parishad in respect of the application filed by the petitioner and the petitioner has not denied the said fact in the rejoinder.

Also, assuming that the petitioner had not applied in terms of the advertisement/public notice, still the petitioner would not be entitled to seek his upgradation on the post of Sanitary Inspector. The public notice mentions the minimum qualifications required for the post of Sanitary Inspector. The petitioner does not possess those qualification. The said fact was considered by this court in the order that is sought to be reviewed. Mere recommendation would not help the petitioner, specially when the petitioner does not fulfill the eligibility criteria for appointment. The order that is sought to be reviewed clearly mentions that the petitioner was not entitled to be upgraded on the post of Sanitary Inspector, as he did not possess the requisite qualification.

In the aforesaid set of facts, we dismiss the review application, with costs.

JUDGE

JUDGE