

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

WRIT PETITION NO. 4219 OF 2015

Ajay Rajendra Pofale

-vs-

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.V. Shiralkar, counsel for the petitioner.
Ms N. P Mehta, A.G.P for the respondent Nos.1 and 2.
Mr. S. N. Gaikwad, counsel for the respondent No.3.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 26.08.2015.

By this petition, the petitioner challenges the appointment of the respondent No.4 on the post of Gram Sevak from Sports Category. The petitioner seeks a direction to the respondent No.2-President of the District Selection Committee to appoint the petitioner on the post of Gram Sevak on contract basis, from the Sports Category. By filing an application for amendment, the petitioner desires to challenge the advertisement to the extent of the condition in respect of qualifications that are required to be possessed by a candidate applying for the post of Gram Sevak. By the proposed amendment, the petitioner desires to challenge the part of the advertisement that provides that a candidate applying for the post of Gram Sevak should possess a MS-CIT Certificate.

In pursuance of the advertisement issued by the respondent No.2 on 22/08/2014, the petitioner applied for appointment on the post of Gram Sevak (contract basis) from the open/sport category. Apart from other educational qualifications, as per the advertisement, a candidate desirous of seeking appointment on the post of Gram Sevak was required to have an

experience of handling computers and a certificate of MS-CIT. Though the petitioner did not possess the certificate of MS-CIT, the petitioner applied for the said post and participated in the selection process. The candidature of the petitioner was rejected on the ground that the petitioner did not possess the necessary MS-CIT certificate, which was a precondition for appointment. The respondent No.4 was selected and appointed on the post of Gram Sevak on contract basis. The petitioner has challenged the appointment of the respondent No.4 and has also sought to challenge the condition in the advertisement that requires a candidate applying for the post of Gram Sevak, to possess a MS-CIT certificate.

On hearing the learned counsel for the parties and on a perusal of the advertisement, it appears that the relief sought by the petitioner cannot be granted. Though the advertisement clearly mentions that a candidate applying for the post of Gram Sevak should possess a MS-CIT certificate, the petitioner applied for the said post in the absence of the said certificate. The petitioner did not challenge the advertisement and participated in the selection process. Since the petitioner admittedly did not possess the MS-CIT certificate, the petitioner was not entitled to be appointed on the post of Gram Sevak and his candidature was rightly rejected by the respondent No.2. The petitioner cannot be permitted to raise the challenge to the condition in the advertisement after participating in the selection process. It is well settled that a candidate participating in the selection process cannot question the process at a subsequent stage. It was necessary for the petitioner to have challenged the advertisement before participating in the selection process. The Hon'ble Supreme Court has time and again held that a challenge to the selection criteria after participation in the selection process is not permissible. It would be worthwhile to refer to the judgments of the Hon'ble Supreme Court, reported in (2009) 3 SCC 227 (Amlan Jyoti Borroah v. State of Assam and

others), (1997) 4 SCC 426 (University of Cochin v. N. S. Kanjoonjamma), (2008) 4 SCC 171 (Dhananjay Malik v. State of Uttaranchal), (2010) 12 SCC 576 (Manish Kumar Shahi v. State of Bihar) and (2011) 1 SCC 150 (Vijendra Kumar Verma v. Public Service Commission) in this regard.

Since the petitioner cannot challenge the condition in the advertisement after participating in the selection process and since the petitioner does not possess the MS-CIT certificate, which was a necessary for appointment on the post of Gram Sevak, the rejection of candidature of the petitioner cannot be said to be bad-in-law. In the circumstances, the writ petition is dismissed with costs.

JUDGE

JUDGE

KHUNTE