

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6639 OF 2015

Balaji s/o. Hanumant Morale,
Age Major, Occ.Driver,
r/o. At post Tambewadi,
Tq. Bhoom, Dist.Osmanabad ..Petitioner

versus

- 1] The State of Maharashtra,
Through its Secretary,
Transport Department,
Mantralaya, Mumbai
- 2] The Chairman,
Selection Committee,
Maharashtra State Road
Transport Corporation,
Sangali Division, Sangali
- 3] The Divisional Controller,
Maharashtra State Road
Transport Corporation,
Sangali Division, Sangali
- 4] Union of India,
Through its Secretary,
Ministry of Human Resource
Development, Shastri Bhavan,
New Delhi ..Respondents

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Mr.P.B.Gapat, advocate for petitioner

Mr.S.B.Pulkundwar, AGP for respondent no.1 – State

Mr.U.B.Shriram, advocate i/b. Mr.D.S.Bagul,
advocate for respondent nos.2 and 3

Mr.A.G.Talhar, advocate for respondent no.4

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : MARCH 29, 2016

ORAL JUDGMENT (Per S.S. Shinde, J.)

Heard.

2] Rule. Rule made returnable forthwith. With consent of learned counsel for the parties, the petition is taken up for final hearing.

3] This petition is filed seeking direction to respondent nos.2 and 3 to issue appointment order appointing the petitioner to the post of Driver in the employment of respondent no.3.

4] It is the case of the petitioner that respondent no.2 initiated recruitment process for filling up the posts of Drivers in the year 2015. The petitioner is possessing requisite

qualifications for appointment to the post of Driver. Therefore, he applied for the said post. Respondent no.2 conducted written examination. The petitioner passed the said examination, and his name is included in the select list at Serial No.550. Thereafter, the petitioner was called for verification of the documents by respondent No.3. During the course of verification of documents, the petitioner was told by respondent no.2 that, he possesses Secondary School Certificate, issued by National Institute of Open Schooling, Noida, which institute is not recognised by respondent no.4. Therefore, the petitioner was considered unfit for the said post for the aforesaid reason and also for the reasons which are mentioned in the Screening Committee report.

5] Learned counsel appearing for the petitioner invited our attention to the copy of the certificate issued by the National Institute of

Open Schooling at Exhibit "C", page 10 of the compilation of the Writ Petition, and submitted that though the said institution is located at Noida, it is an autonomous institution under MHRD, Government of India and also Noida region comes under NCR. Learned counsel further invited our attention to page 11 of the compilation of the Writ Petition and submitted that the petitioner has been declared 'Pass' in the Secondary School Examination conducted by the said Board.

6] Learned counsel appearing for the petitioner further invited our attention to the letter addressed to all the Regional Managers of State Road Transport Corporation by respondent no.3, wherein, in clause 2, it is mentioned that the candidates who have passed Secondary School Certificate examination from the National Open Schooling University, New Delhi, should be considered eligible for appointment to the posts

which are advertised. Learned counsel, relying upon the pleadings in the petition and grounds therein, submits that, the petitioner possesses the necessary and requisite qualification and therefore, the petitioner ought to have been appointed as Driver.

7] On the other hand, learned counsel appearing for respondent no.3, relying upon the averments in the affidavit-in-reply and contents of impugned communication, submitted that the certificate produced by the petitioner is of National Institute of Open Schooling, Noida and not from an institute at New Delhi, and therefore, the petitioner's candidature for the post of Driver has been rightly rejected. He further submits that the petitioner also did not fulfill the other two requirements which are mentioned in the Screening Committee's report.

8] Learned counsel appearing for respondent no.4, on instructions from the Officer who is present in the Court, submitted that the National Institute of Open Schooling at Noida, is also a recognised institution of the Government of India and therefore, there was no reason for respondent no.2, to reject the candidature of the petitioner for the post of Driver on the ground that the said institute is not situated in New Delhi.

9] We have given careful consideration to the submissions of learned counsel appearing for the petitioner; learned counsel appearing for respondent no.3 and learned counsel appearing for respondent no.4. With their able assistance, we have perused the pleadings in the petition, annexures thereto and in particular, the certificate at Exhibit "C" page 10 to the compilation of the Writ Petition.

10] Upon careful perusal of the copies of the documents placed on record, it appears that the said certificate is issued by the National Institute of Open Schooling, situated at Noida, an autonomous institution under MHRD, Government of India. In the said certificate, it is mentioned that the said institution is situated at Noida (NCR). The copy of passing certificate is also placed on record by the petitioner. Therefore, it appears that the petitioner possesses requisite qualification for appointment to the post of Driver, however, according to respondent no.2, the said institution is not situated in New Delhi and therefore, the said certificate had not been accepted.

11] In our opinion, since the National Institute of Open Schooling, Noida, is an autonomous institution under MHRD, Government of India and even according to learned counsel appearing for respondent no.4 – Union of India, the said

institution is recognised by respondent no.4, there was no valid reason for respondent no.2 in not accepting the said certificate.

12] So far as the other two grounds which are mentioned in the screening test report are concerned, learned counsel appearing for the petitioner, on instructions, undertakes to resubmit the copies of the relevant documents within a period of two weeks from today before respondent no.3.

13] In the light of the discussion in the foregoing paragraphs, the reasons assigned by respondent no.3 to declare the present petitioner unfit for the post of Driver are quashed and set aside. Respondent no.3 is directed to take a decision afresh regarding appointment of the petitioner to the post of Driver, within a period of eight weeks from today, however, without

raising a query about the certificate issued by the National Institute of Open Schooling, Noida, and shall treat the said certificate as a valid proof of passing of Secondary School Examination by the petitioner.

14] The Writ Petition is partly allowed to the above extent. Rule is made absolute in the above terms.

15] Parties to act upon an authenticated copy of this order.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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