

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.1631/2016

913 WRIT PETITION NO. 1631 OF 2016

RAGHOBHA SHIVRAM SOMWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.S.Mohekar h/f Mr.Patil Kuldeep S
AGP for Respondent State:Mr. D.R.Kale
Smt.Reddy Ranjana D., Advocate, for R/2 to 4.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: February 12, 2016

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PER COURT :-

1. This writ petition, under Article 226 of the Constitution of India, is filed with following prayers:

"B. To hold and declare that, the petitioner is eligible and qualified for departmental examination for appointment of promotional post as a "Traffic Inspector Superintendent", which held on 14.02.2016, conducted by respondent no.2.

C) By issuing Writ of Mandamus, or any other writ, order or direction in the like nature, respondents may kindly be directed to allow the petitioner for departmental examination for appointment of promotional post as a "Traffic Inspector Superintendent", which is held on 14.02.2016."

2. Learned Counsel appearing for the petitioner invited our attention to the fact that, as the petitioner's application for allowing him to appear for the examination for the post of Assistant Traffic Superintendent (in short, "ATS") has not been

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forwarded by the Divisional Controller, the petitioner was constrained to apply directly to the competent authority. He submits that, even the other three officers, who are allowed to appear for the said examination, are similarly situated like the petitioner, in as much as, though they were appointed as Traffic Inspector, departmental enquiry is pending against them, and even out of those three candidates, the candidates at Sr.Nos. 2 and 3, namely, Mr.H.L.Chapte and Mr.B.P.Owandkar, have not been confirmed as Traffic Inspector and, therefore, the petitioner, who is also similarly situated like afore mentioned two inspectors, ought to have been allowed to appear for the examination scheduled on 14th February, 2016, for the post of ATS. Therefore, learned Counsel appearing for the petitioner, relying upon the pleadings in the petition, annexures thereto, submits that the petition deserves to be allowed.

3. On the other hand, learned Counsel appearing for respondent nos. 2 to 4, relying upon the affidavit in reply, submits that, cut off date for filing the application for the departmental promotion for the post of ATS was 25th June, 2014. The candidates were required to apply for the said posts through Unit Head/s till 21st June, 2014. The petitioner is promoted on ad hoc basis on the post of Traffic Inspector, and, therefore, he is not entitled to compete for the post of ATS by promotion.

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4. We have considered the submission of the learned Counsel appearing for the petitioner, learned Counsel appearing for respondent nos. 2 to 4, and learned A.G.P. appearing for respondent no.1. Admittedly, the petitioner was promoted on ad hoc basis on the post of Traffic Inspector, and nothing is brought to the notice of this Court to show that, the petitioner was appointed as a Traffic Inspector on regular basis, like other two Inspectors, namely, Mr. H.L.Chapte and Mr. B.P.Owandkar. Upon perusal of the information placed on record by respondent nos. 2 to 4, it appears that, three Inspectors, namely (1) Mr. B.D.Patil, (2) Shri H.L.Chapte and (3) Shri B.P.Owandkar have been appointed on regular basis as Traffic Inspector by way of promotional examination on 1st December, 2008, 4th July, 2012 and 3rd December, 2012, and by virtue of their services in regular post as Traffic Inspector, though not confirmed, their names have been forwarded, allowing them to appear for the examination for their appointment on promotion to the post of ATS.

5. Upon considering the factual scenario brought on record by respondent no.2, in our opinion the reliefs claimed by the petitioner cannot be granted. Hence, the petition stands rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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