

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 5858 OF 2014

SANDEP SURESH PATIL. ... PETITIONER.

VERSUS

**THE STATE OF MAHARASHTRA
AND OTHERS. ... RESPONDENTS.**

...

**Advocate for Petitioners : Mr.Wagh Umakant U
AGP for Respondents/State: Mr.A.V. Deshmukh.
Advocate for Respondents : Mr.Deshmukh Rajendra S.
for R/2 & 3, Mr.P.S. Shendurnikar for R/4, 5, 7 & 8.**

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CORAM : S.S. SHINDE & P.R. BORA, J., JJ.

Dated: 15th JANUARY, 2016.

PER COURT :-

1. Heard learned Counsel for the parties. By way of filing this petition under Article 226 of the Constitution of India, the petitioner seeks directions tot he respondents No.2 and 3 to consider the claim of the petitioner on the basis of marks obtained from the category of Disabled Persons as well as Other Backward Class and issue him appointment order of the post of Clerk.

2. The learned Counsel for the petitioner invited our attention to the merit list and submits that the petitioner has scored necessary marks to be qualified for the said post. It is submitted that apart from the fact that the petitioner is qualified, the petitioner did apply from the category of Disabled Persons as well as O.B.C. It is submitted that, by mistake the petitioner filled in as "Grade B" instead of "Grade C" while filing in the information about Marathi typing test. It is submitted that for the said post, speed of 30 W.P.M. in Marathi typing and 40 W.P.M. in English typing was prescribed. It is the submission of the learned Counsel for the petitioner that, even though "Grade B" has been mentioned instead of "Grade C", it has no bearing on the marks which the petitioner has secured in the test conducted by the respondents. At the cost of repetition, it is submitted that, when the candidate possesses passing certificate of 30 W.P.M. in Marathi typing, in substance, the same would amount to "Grade C" and, therefore, the petitioner's candidature for the said post ought to have been accepted keeping in view the marks scored by the petitioner during the test conducted by the respondents.

3. The respondents 2 and 3 have filed affidavit-in-reply. In para 8 of the same, it is stated that the petitioner has furnished wrong / false information about his Marathi Typing proficiency. He tried to to upgrade his profile by suppressing the fact that he has acquired "Grade-C" in the Marathi typing proficiency. The petitioner has rendered himself unsuitable for selection by furnishing incorrect information. There is also reference to the directions issued by the High Court that, in case any candidate has given incorrect/false information and it is detected in the course of selection process, even the criminal prosecution can be initiated against such candidate. It is submitted that, the process of selection was initiated in the year, 2013 and almost entire selection process has been over. If, petitioner's case is considered favourably, the candidates otherwise suitable but, giving incorrect information may seek relief, which would upset the entire process. Therefore, he submits that the petition may be rejected.

4. We have given careful consideration to the submissions of the learned Counsel for the parties, with their able assistance, perused the pleadings in the petition,

annexures thereto, and reply filed by respondents No.2 and 3. Admittedly, the petitioner instead of mentioning “Grade C” having acquired in passing Marathi typing of 30 W.P.M., mentioned “Grade B”. In that view of the matter and keeping in view the directions issued by the High Court, the respondents have rightly rejected the candidature of the petitioner. Nothing has been brought to the notice of this Court showing that, the respondent - authorities have discretion to consider the prayer of the petitioner or similarly situated candidates for correcting the incorrect information filled in the application form. The learned Counsel for the petitioner has also not brought to our notice any document showing that, the petitioner immediately applied for correction of the incorrect information filled in the application form.

5. In that view of the matter, in our opinion, no fault can be attributed to the decision taken by the respondents. Reliance placed by the Counsel for the petitioner on the decision in case of ***Manoj Kumar vs Govt. of NCT of Delhi & Ors.***¹ is misplaced in the facts of the present case. In the

¹ 2010(11)SCC 702;

said case, the Supreme Court was considering altogether different fact situation inasmuch as, in that case, the appellant therein studied in the sixth standard in MAGSS School, Jind, Haryana and he had a document in his possession showing his date of birth as 8th September, 1988. At the relevant time, he did apply for correction in the date of birth and keeping in view the said factual scenario in the said case, the Supreme Court allowed appeal of the appellant therein. However, in the present case, admittedly, the petitioner did furnish incorrect information and as a result, respondents have rejected candidature of the petitioner.

6. In this view of the matter, we do not see any reason to entertain the petition. Hence, the petition stands rejected.

(P.R. BORA, J.)

(S.S. SHINDE, J.)