

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

WRIT PETITION NO.6502 OF 2014

Ravindra s/o Ambadas Pansare,
Age: 37 Years, Occu: Self employed,
R/o. Rashin, Tq. Karjat,
Dist. Ahmednagar **PETITIONER**

VERSUS

- 1] The City and Industrial Development Corporation of Maharashtra Ltd.,
CIDCO Bhavan, C.B.D. Belapur,
Navi Mumbai – 411 614
Through its Managing Director
- 2] The Member Secretary of Selection Committee, The City and Industrial Development Corporation of Maharashtra Ltd., CIDCO Bhavan, C.B.D. Belapur,
Navi Mumbai-411 614.
- 3] Savitribai Phule Pune University
Ghanesh Khind, Pune-411 007
Through its Registrar **RESPONDENTS**

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Mr. N.V.Gaware, Advocate for the Petitioner.
Mr. Ajay S. Deshpande, Advocate for Respondent Nos.1 and 2
Respondent No.3 – served.

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

DATE: 01.04.2016.

JUDGMENT: [Per S.S.Shinde, J.]:

1] This Writ Petition is filed with following prayers:

B) Hold and declare that, inaction on the part of Respondent No.1 and 2 in not conducting the interview of the petitioner on the scheduled date for the post of Assistant Public Relation Officer in pursuance to the advertisement dated 05.03.2014, published in 'Daily Loksatta' is illegal, arbitrary and violative of Article 14, 16 and 21 of the Constitution of India, hence liable to be quashed and set aside and for that purpose issue necessary orders.

C) Issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ of mandamus directing the Respondent Nos.1 and 2 and to conduct the interview of the petitioner and to undertake further process of selection of the post of Assistant Public Relation Officer in pursuance

to the advertisement dated 05.03.2014, published in 'Daily Loksatta' and for that purpose issue necessary orders.

2] It is the case of the petitioner that, on 05.03.2014, respondent No. 1 issued an advertisement in 'Daily Loksatta' for recruitment of various posts, including one post of Assistant Public Relation Officer. The said post was reserved for the candidate belonging to VJNT. It is submitted that, as per the said advertisement, applications for various posts were invited from the aspiring and eligible candidates on or before 31.03.2014. The instructions and guidelines to the candidates were uploaded on the official website of respondent No.1. The said information disclosed that, educational qualification for the post of Assistant Public Relation Officer is degree in Journalism with Mass Communication from the recognized University with minimum one year

experience in Public Relation. As per the advertisement, the petitioner was / is possessing necessary qualification.

3] It is further the case of the petitioner that the interview call letters were issued in favour of the candidates only after detailed scrutiny and being satisfied with the credentials of the candidates. It is submitted that the candidates, who were called for interview, were complying with the necessary eligibility criteria, and therefore, they were invited for the interview. Accordingly, on 22.07.2014, the petitioner had remained present in the office of respondent No.1 at about 9.00 a.m. for the interview along with necessary relevant documents. It is submitted that, the petitioner signed the attendance sheet and register maintained for the verification of original documents. Therefore, it is crystal clear that, the petitioner remained present

for the interview at the right time. Thereafter, the original documents of the petitioner regarding qualification, experience, age, caste validity certificate, school leaving certificate and other documents were verified.

4] It is submitted that, after due verification, the petitioner was asked to remain in the office till his turn would come for the interview. It is submitted that, the petitioner was called for the interview before respondent No.2 at 2.30 p.m. on the said day. It is submitted that, the petitioner appeared before respondent No.2 Committee and respondent No.2 Committee was interviewing him. In the midst of interview, the Chairman of the Selection Committee raised the query to the petitioner regarding his educational qualification as regards Journalism. It is submitted that, the petitioner satisfied said query by responding

that, he has completed Master's degree in 'Mass Relations' from the C.S.R.D. Ahmednagar, affiliated and duly approved by the University of Pune. It was also informed that, the University of Pune has recognized the said master's degree course of two years in journalism. It was also informed that, the nomenclature of the said course may be different, but the petitioner is eligible to be considered for the post of Assistant Public Relation Officer. However, the Chairman of the Selection Committee abruptly stopped the interview of the petitioner and refused to take / complete the interview of the petitioner. The petitioner was asked to leave the premises without conducting further interview. The petitioner was really astonished and shocked by the behaviour of the Chairman of the Selection Committee of respondent No.1, as the petitioner ought to have been interviewed. Moreover, the

petitioner was asked to leave the office in the midst of interview only within 3 to 4 minutes. The petitioner was orally informed that, he was not eligible to be considered for the post of Assistant Public Relation Officer and stood disqualified for want of necessary educational qualification.

5] The learned counsel appearing for the petitioner further submits that respondent No.2 Committee acted in unfair manner and though, the petitioner was eligible, he was not permitted to participate in the further process of selection. It is further submitted that, 'Master of Mass Relation' and 'Master of Mass Communication' Courses are one and the same with different nomenclatures. Their curriculum and subjects are the same. The master's degree is conferred after one year degree course in the Journalism. It is submitted that, the selection process conducted by respondent

No.2 was not fair and was bias and predetermined to select candidate of the choice of the Committee. It is submitted that, without giving any opportunity to the petitioner to defend him, straightway he has been held to be not eligible for the said post. It is submitted that, the petitioner recently had appeared for the interview for the post of Public Relation Officer with Maharashtra State Electricity Distribution Co. Ltd. [MSEDCL] and based on the same educational qualification, he was permitted to participate in the selection process. Accordingly, he was selected for the said post as found to be eligible, placed in the wait list and the selection letter was issued in his favour on 9th February, 2011 by MSEDCL. It is submitted that, the petitioner on 24th July, 2014, submitted detailed representation to respondent No.1 ventilating his grievance regarding his disqualification for the post

of Assistant Public Relation Officer. However, the respondents have failed to consider the said representation and no action whatsoever has been initiated.

6] The learned counsel appearing for the petitioner submits that, Master of Mass Relations is a Master's Degree Course conducted by CSRD and is affiliated to Pune University. The said course is for two years of Master's Degree and during the said period, almost 10 subjects are covered. At the cost of repetition, he submits that, the Master's degree in 'Mass Relations' and Master's Degree in 'Mass Communication' are one and the same and moreover equivalent save and except the difference in the nomenclature.

7] Pursuant to the notices issued to the respondents, respondent Nos.1 and 2 filed affidavit-in-reply. It is submitted that the

claim of the petitioner that, 'Master of Mass Relation' and 'Master of Mass Communication' are one and the same courses with different nomenclatures is not factually correct and thus not acceptable to respondent Nos.1 and 2. The requirement as per the advertisement was of a degree of a recognized University in Journalism / Mass communication and not of Mass Relations. As the qualifications possessed by the petitioner were not answering the qualification prescribed under the advertisement, he was not considered eligible, so as to allow him to participate in the selection process. It is submitted that, 11 candidates were shortlisted for interview, who were *prima facie* found eligible. Confusion that has occurred in respect of the petitioner is because the petitioner had mentioned the subjects of the degree, which were suited to the qualification prescribed in the

advertisement. As a matter of fact, the certificate merely states 'Master of Mass Relations' and it nowhere mentions 'PR, Journalism, Communication' as scribed by the petitioner. If the degree possessed by the petitioner was of Master of Mass Relation, there was no justification to make a mention of some of the subjects of the degree course. As a matter of fact, there were in all 6 subjects in the said degree course i.e. Master of Mass Relations, however, petitioner has mentioned 'PR, Journalism, Communication', which in fact do not figure as it is even in the mark-sheet at Page-30 of the Paper Book. Respondent Nos.1 and 2 got misled initially, however, at the time of interview the Selection Committee noticed that, the degree possessed by the petitioner is different and distinct one than the one prescribed under the advertisement. Had the petitioner been fair, he would have

mentioned all the subjects, if at all those were to be mentioned by him and mere mention of 'PR, Journalism & Communication' is indeed an attempt to mislead respondent nos. 1 and 2, which in terms of clause 7 & 8 of the advertisement entailed in disqualification. Accordingly, the petitioner has been rendered disqualified on account of attempting to mislead respondent nos. 1 and 2 by unnecessarily mentioning the subjects at the degree level, while describing the degree he possessed.

8] It is submitted that, even considering the subjects taught for the course of Master of Mass Relations, it would be abundantly clear that, those are quite different than those are taught while prosecuting the degree course of 'Master of Communication'. It is further submitted that, on account of not possessing the required qualification prescribed as per the

advertisement, the Selection Committee felt it appropriate not to interview the petitioner, after the Interview Committee sought explanation from the petitioner as to the degree he possessed. It is submitted that, the Interview Committee evaluated the performance of the eligible candidates on the basis of 5 parameters viz (a) qualifications, (b) experience, (c) general awareness, (d) personality and (e) analytical ability and concluded the selection process. The Interview Committee rightly decided not to permit the petitioner to participate in the selection process, upon giving him an opportunity to explain as to how he answers the qualifications prescribed in the advertisement. No fault, therefore, can be found with the said decision of the Interview Committee. It is submitted that, having lacked the basic qualification prescribed in the advertisement, the petitioner was rightly

eliminated from the selection process and the said decision cannot be faulted with. Respondent Nos.1 and 2 have concluded the selection process and the results have already been declared on the official website on 28th July, 2014. The selection has been made purely on the basis of merit as evaluated by the Interview Committee and the selected candidate has also joined as Assistant Public Relation Officer.

9] We have given thoughtful consideration to the submissions of the learned counsel appearing for the petitioner, and the learned counsel appearing for respondent Nos.1 and 2. With their able assistance, perused the grounds taken in the Petition, annexures thereto, reply filed by the respondent Nos.1 and 2 and the affidavit-in-rejoinder filed by the petitioner. Upon careful perusal of the copy of the advertisement issued by respondent nos.1 and

2 (at Exhibit-B Page-20), for the post of Assistant Public Relation Officer, the educational qualification is mentioned as under:

"Degree of a recognised university with degree in Journalism / mass communication".

The petitioner possesses degree in 'Mass Relations' from the University of Pune. Admittedly, the petitioner does not possess exact qualification i.e. 'Mass Communication' as mentioned in the advertisement. It is the submission of the learned counsel appearing for the petitioner that, 'Master of Mass Relation' and 'Master of Mass Communication' courses are one and the same with different nomenclatures, though the curriculum and subjects are the same. The said Master's degree is conferred after one year degree course in the Journalism. Upon careful

perusal of the copy of online application filled up by the petitioner in clause 6, it was mentioned against the column 'Principal subjects offered', Social Psychology, Journalism Public Relation & Advertising Communication, etc. Upon careful perusal of the statement of the marks issued by the University of Pune, it is written 'Master of Mass Relations'. It appears that, relying upon the information given in online application, the petitioner was called for interview and during the course of verification of the documents, it was found that, the petitioner possesses 'Master of Mass Relation' degree and not 'Master of Mass Communication' as mentioned in the advertisement.

10] The contentions raised in the Petition by the petitioner gave rise to a question whether the Court can decide a particular educational qualification should

or should not be accepted as equivalent to the qualification prescribed by the Authority? The Supreme Court in the case of *State of Rajasthan and others Vs. Lata Arun*¹, after considering the ratio laid down in the earlier pronouncements of the Supreme Court of which reference is made in para 10 and 11 of the said judgment, held that, the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

Yet in another authoritative pronouncement in the case of *Sanjay Kumar Manjul Vs. Chairman, UPSC & others*², it is

1 AIR 2002 SC 2642

2 [2006] 8 SCC 42

held that, the qualifications for recruitment to a post are laid down in terms of the statutory rules. The statutory authority is entitled to frame the statutory rules laying down the terms and conditions of service as also the qualifications essential for holding a particular post. It is only the authority concerned which can take ultimate decision therefor.

Yet in another Judgment in the case of *P.M. Latha and another Vs. State of Kerala and others*³ the Supreme Court while considering the argument that, B.Ed. qualification is a higher qualification than TTC and therefore the BEd candidates should be held to be eligible to compete for the post, has held as under:

There is no force in the argument that BEd qualification is a higher qualification than TTC and

3 [2003] 3 SCC 541

therefore the BEd candidates should be held to be eligible to compete for the post. On behalf of the appellants it is pointed out that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for BEd degree the training imparted is to teach students of classes above primary. BEd degree-holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or BEd qualification is a matter of recruitment policy. There is sufficient logic and justification in the State prescribing qualification for post of primary teachers as only TTC and not BEd. Whether BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but the

Court cannot consider BEd candidates for the present vacancies advertised, as eligible.

Yet in another Judgment in the case of *Prakash Chand Meena and others Vs. State of Rajasthan and others*⁴, while considering the issue of equivalence of qualification, the Hon'ble Supreme Court held that, recruitment process must be completed as per the terms and conditions in the advertisement and as per Rules existing when the recruitment process began.

11] In the present case, admittedly, the petitioner has not challenged the advertisement that, it omitted to mention equivalent qualification 'Mass Relations' for the post of Assistant Public Relation Officer. The petitioner participated in the selection process in pursuance of the advertisement wherein qualification possessed

4 [2015] 8 SCC 484

by the petitioner is not mentioned as the requisite qualification for the post of Assistant Public Relation Officer. The Supreme Court while considering the similar fact situation, as has arisen in the present Petition, in the case of *Prakash Chand Meena and others Vs. State of Rajasthan and others [cited supra]* in para 9 held thus:

9. The candidates who were aware of the advertisement and did not have the qualification of CPED also had two options, either to apply only for PTI Gr. II if they had the necessary qualification for that post or to challenge the advertisement that it omitted to mention equivalent or higher qualification along with qualification of CPED for the post of PTI Gr. III. Having not challenged the advertisement and having applied for the other post, they could not have subsequently claimed or be granted eligibility on the basis of equivalence clarified

or declared subsequently by the State Government. In the matter of eligibility qualification, the equivalent qualification must be recognised as such in the recruitment rules or government order existing on or before the initiation of recruitment process. In the present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor were the equivalent qualifications reflected in the recruitment rules or government orders of the relevant time.

12] The learned counsel appearing for the petitioner was at pains to submit that, the respondents allowed his participation in selection process, the petitioner was called for interview, and therefore, petitioner's candidature should not have been rejected. There is fallacy in the said argument inasmuch as the petitioner was aware that,

the qualification i.e. Master's Degree in 'Mass Relations' is not mentioned in the advertisement for the post of Assistant Public Relation Officer, and therefore, it is not open for the petitioner to contend that, he is entitled for equitable relief.

13] While considering the principle of equity and law, the Hon'ble Supreme Court in the case of P.M. Latha and another Vs. State of Kerala and others [cited supra] in para 13 held thus:

13. Equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law. The Division Bench forgot that in extending relief on equity to BEd candidates who were unqualified and yet allowed to compete and seek appointments contrary to the terms of the advertisement, it is not redressing the injustice caused to the appellants who were TTC

candidates and would have secured a better position in the rank list to get appointment against the available vacancies, had BEd candidates been excluded from the selections. The impugned judgment of the Division Bench is both illegal, inequitable and patently unjust. The TTC candidates before us as appellants have been wrongly deprived of due chance of selection and appointment. The impugned judgment of the Division Bench, therefore, deserves to be set aside and of the learned Single Judge restored.

14] Therefore, in our considered view, neither we can consider the prayer of the petitioner to treat the qualification i.e. 'Master in Mass Relations' as equivalent to the 'Master in Mass Communication', which is mentioned in the advertisement, nor the petitioner is entitled for any equitable relief. Since we have reached to the

conclusion as aforesaid, it is not necessary for us to consider ancillary and incidental issues raised in the Petition. Accordingly, in the light of the ratio laid down by the Hon'ble Supreme Court in the case of *State of Rajasthan and others Vs. Lata Arun* [cited supra], and other judgments referred herein above, it is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority. Therefore, the petitioner is not entitled for the reliefs prayed for in the Petition, hence, Petition stands rejected.

Sd/-

[SANGITRAO S.PATIL]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE