

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.679 OF 2016.

Ms. Kalpita Sitaram Gavandi
Age 24 years,
D/o Sitaram Gavandi
r/o Block C-CG-4, Reach Bldg.
Residency
Cabeca, St. Cruz,
Tiswadi Goa.

..... Petitioner

Versus

- 1 State of Goa
Through the Chief Secretary,
Government of Goa
Secretariat, Porvorim
Bardez Goa
- 2 The Director of Panchayats,
Government of Goa,
Junta House, 3rd Lift, 3rd floor,
Panaji Goa.
- 3 The Additional Secretary (Personnel)
Department of Personnel,
Government of Goa,
Secretariat, Porvorim,
Bardez Goa.

..... Respondents.

Shri V. Palekar, Advocate for the petitioner.

Shri S. D. Lotlikar, Advocate General with Shri P. Dangui, Additional Government Advocate for the respondents.

**Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date:- 4th August, 2016

ORAL ORDER: (PER F.M.REIS,J)

Heard Shri V. Palekar, learned Counsel appearing on behalf of the petitioner and Shri S.D. Lotlikar, learned Advocate General

appearing on behalf of the respondents.

2. The above petition takes exception to an intimation served on the petitioner to report for an oral interview on 05/08/2016 in connection with the selection of class III employees by the State Government based on an advertisement dated 30/12/2014. Shri V. Palekar, learned Counsel appearing on behalf of the petitioner points out that in the meanwhile a Circular has been issued on 08/01/2016 as well as an Office Memorandum on 08/01/2016 inter alia giving away with oral interviews of employees for 'C' class posts. The learned Counsel has placed reliance on clause 5 of the said Office Memorandum to point out that such Circular would also apply to the post which had already been advertised and the process is in progress wherein there is no clause of oral interview. The learned Counsel further pointed out that in the circumstances, as the said Circular has come in force with retrospective effect, there is no question of calling the petitioner for an interview by the respondents which is unjustified. The learned Counsel has thereafter placed emphasis on the said clause to point out that the advertisement itself did not provide for an oral interview and the Circular issued by the Government would apply to the subject post advertised. The learned Counsel as such submits that the impugned intimation calling the petitioner for interview be quashed

and set aside and consequently, the respondents be directed to proceed with the selection process without holding any oral interview.

3. On the other hand, Shri S.D. Lotlikar, learned Advocate General appearing on behalf of the respondents points out that the written test which was conducted was for the purpose of short listing as according to him there are more than 5825 applications out of which 1271 applications were of Backward Class category for total 18 posts out of which 4 posts for O.B.C., 3 posts for S.T., 1 post for Ex-servicemen, 1 post for Physically Handicapped and 9 posts for general category. The learned Advocate General further pointed out that even on plain reading of the said clause relied upon by the learned Counsel appearing for the petitioner at the most it would result in re-advertisement of the posts which could not at all be justified as there were more than 5000 applicants and only one petitioner approached this Court. It is further pointed out that in any event, it clearly reveals that such Circular would not apply to cases where the selection process has already commenced and as such the contention of the learned Counsel appearing for the petitioner ought to be rejected. It is further submitted by the learned Advocate General that the posts which were advertised in the year 2014 also envisaged oral interview in

view of the office memorandum which was in force issued in the year 2007. It is further pointed out by the learned Advocate General that in any event holding an oral interview does not vitiate the selection process as it has now been well settled that this mode is accepted for selection.

4. We have considered the submissions made by the learned Counsels for the parties and also gone through the material on record.

5. Considering the contentions of the learned Advocate General we find that the contention of Shri Palekar, learned Counsel for the petitioner that the original advertisement only envisaged written test cannot be accepted. In terms of the Rule governing the selection process for the posts advertised and reading the Office Memorandum relied upon by the learned Advocate General was of year 2007 we find that holding an oral interview was contemplated for the subject posts before coming into force of the said Circular relied upon by the petitioner. On reading the said clause, it clearly provides that in cases where the selection process has already been initiated, such process can be completed even on the basis of oral interview. As such the contention of the learned Counsel for the petitioner that the said Circular would override any terms or

conditions imposed in the advertisement cannot be accepted. Apart from that it is an admitted position that more than 5000 applicants have applied for the subject posts and only one petitioner has approached this Court with such grievance. As such it would not justify interference with the selection process initiated way back in the year 2014 at this stage.

6. Hence, the petition stands rejected.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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