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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 3381 OF 2014

Vasudeo S. Pawar ... Petitioner  
Vs.  
The Additional Secretary,  
Maharashtra Public Service Commission  
and ors. ... Respondents

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Ms Vaishali Jagdale for the Petitioner.  
Mr. V.B. Thadani, AGP for Respondent Nos.1 to 5.  
Ms Swati Manchekar for Respondent No.6.

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CORAM : V. M. KANADE, AND  
M. S. SONAK, JJ.

DATE : JULY 12, 2016

P. C.

1] The petitioner challenges the judgment and order dated 24 October 2013, passed by the Maharashtra Administrative Tribunal (MAT), Mumbai dismissing the petitioner's Original Application (St.) No. 839 of 2009 and the miscellaneous applications made therein.

2] Ms Vaishali Jagdale, learned counsel for the petitioner, has submitted that the impugned judgment and order non-suit the petitioner, merely on the grounds of delay and laches. She submitted

that in fact, in the present case, there was no delay, since, the original application came to be instituted no sooner the petitioner obtained the relevant information by resort to the procedure under the Right to Information Act, 2005 (RTI Act). Ms Jagdale has submitted that the petitioner was corresponding with the respondents in order to secure the information as to the precise meaning and scope of the expressions “*responsible post*” or “*big commercial organizations*” as they appear in the Recruitment Rules for the post of Assistant Controller of Rationing. No sooner, such information was furnished to the petitioner, the petitioner instituted the original application questioning the appointment of respondent No.6 to the said post. Accordingly, Ms Jagdale submitted that the impugned judgment and order warrants interference.

3] Mr. V.B. Thadani, learned AGP appearing for respondent Nos. 1 to 5 and Ms Swati Manchekar, learned counsel for respondent No.6 have defended the impugned judgment and order made by the MAT, by submitting that the delay in the present case was inordinate and there was no explanation whatsoever offered by the petitioner. Further, they submitted that the petitioner applied for information, much after the prescribed period of limitation and therefore, the petitioner cannot be permitted to take advantage of his own inaction in the matter. They submitted that even otherwise, the MAT has rightly held that there was no infirmity whatsoever in the appointment of

respondent No.6 to the post of Assistant Controller of Rationing and that such appointment was entirely consistent with the qualifications prescribed in the Recruitment Rules. For all these reasons, they submitted that this Court may not interfere with the impugned judgment and order.

4] We have considered the rival contentions, perused the record as well as the impugned judgment and order. In our judgment, there is really no case made out to warrant interference with the impugned judgment and order in the exercise of our jurisdiction under Articles 226 and 227 of the Constitution of India.

5] In the present case, the Maharashtra Public Service Commission (MPSC) had advertised for the post of Assistant Controller of Rationing in August 2004. On 31 January 2005, the petitioner was duly informed that his application for being considered to the said post stands rejected, as according to the MPSC, the petitioner did not fulfill the requisite eligibility criteria. In August 2005, the selection procedures were completed and respondent No.6 was duly appointed to the said post. The cause of action for questioning the MPSC's rejection letter dated 31 January 2005 arose, no sooner the petitioner received the said letter some time in February 2005. In any case, the cause of action for questioning the selection of respondent No.6 arose in August 2005 or thereabouts. The original

application instituted after a period of almost four years in the year 2009 was obviously barred by limitation. The cause indicated in the application seeking condonation of delay hardly constitutes any sufficient cause and therefore, the MAT was quite justified in dismissing the miscellaneous applications seeking condonation of delay.

6] The only cause indicated by the petitioner was that the petitioner applied for information under the R.T.I. Act as to scope and import of certain expressions like “*responsible posts*” or “*big commercial organization*” as they appear in the Recruitment Rules for the post of Assistant Controller of Rationing and that after such information was furnished, the petitioner instituted the original application. The Recruitment Rules have been in force, even before the advertisement was issued in August 2004. Nothing prevented the petitioner from making enquiries as to the scope of such expressions. In any case, the candidature of the petitioner was rejected on 31 January 2005, on the grounds that the petitioner did not fulfill the qualifications prescribed in the Recruitment Rules. At least, at that stage, the petitioner, should have immediately applied for and secured the information. The record indicates that the petitioner has delayed in the matter of seeking the information and therefore, the petitioner cannot seek to draw an advantage on the basis of his own inaction. Besides, there was really no necessity for the petitioner to wait until he

secures such information, if the petitioner was indeed confident that he fulfilled the qualification as prescribed in the Recruitment Rules or that respondent No.6 did not fulfill the same. In passing the order, the MAT has also held that the respondent No.6 was eligible to be appointed and therefore, there was no legal infirmity in the appointment of respondent No.6.

7] We are satisfied that the impugned judgment and order does not suffer from any jurisdictional error or perversity. The delay in present case was indeed inordinate and there was no sufficient cause demonstrated by the petitioner.

8] For the aforesaid reasons, we dismiss this petition. There shall, however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]