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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10227 OF 2014

Jyoti P. Chaure ... Petitioner
Vs.
Chief Conservator of Forests
(Territorial) Nashik Circle, Nashik
and ors. ... Respondents

Mr. Sanjay P. Shinde for the Petitioner.
Mr. C.P. Yadav, AGP for the Respondent Nos.1 to 3.

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

DATE : JULY 18, 2016

P. C.

1] The petitioner challenges the order dated 17 September 2014 made by the Maharashtra Administrative Tribunal (MAT), Mumbai to the extent such order denies the petitioner direction for her selection and appointment to the post of Peon in terms of advertisement issued in July 2013.

2] In Original Application No. 1235 of 2013, instituted by the petitioner, the petitioner had questioned the appointment of respondent No.4 to the post of Peon, *inter alia*, on the ground that the advertisement and the subsequent selection procedure were not in

accordance with Government Resolution (G.R.) dated 7 June 2004. It was also the case of the petitioner that the selection procedures were vitiated by several irregularities including *mala fides*.

3] The MAT, by the impugned order dated 17 September 2014 has in fact, accepted the case pleaded by the petitioner and on the said basis, has approved the decision of the State Government to cancel the entire selection process. At the same time, the MAT has very correctly held that if the entire selection process is found to be defective, there is no question of the petitioner claiming selection or appointment on the basis of the very same selection process. We are unable to detect any illegality or perversity in the approach of the MAT.

4] The learned counsel for the petitioner placed reliance upon the decision in case of ***Bishnu Biswas and ors. Vs. Union of India and ors – (2014) 5 SCC 774***, to submit that cancellation of the whole selection process might result in several candidates, including the petitioner being rendered ineligible, at least in respect of age, as the advertisement in the said case had been issued at least six years ago.

5] The decision in case ***Bishnu Biswas (supra)***, is not at all applicable to the facts and circumstances of the present case. In the

said case, the advertisement in-question had been issued six years ago and further, the main issue involved was with regard to rules of the game being changed after the conduct of the written test. In these circumstances, it was held that the selection process upto the stage of holding the written test, need not have been scrapped.

6] In the present case, even the petitioner had questioned the very advertisement on the ground that the same was not in accordance with G.R. dated 7 June 2004. Since, the entire selection process, right from the stage of issuance of advertisement had been questioned by the petitioner and further, since even the State Government acknowledged the entire process was not legal, there was no option, but to scrap the entire process, which is precisely what has been done in the present case. Besides, the time gap between the conduct of the test and its scrapping, in the present case, is not too large. The decision in case of ***Bishnu Biswas (supra)*** is therefore, not attracted to the facts and circumstances of the present case.

7] In the aforesaid circumstances, there is no case made out to interfere with the impugned order. This petition is therefore, dismissed. There shall, however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]