

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 986 OF 2012**

Institution of Industrial
Safety Professionals of India and ors. .. Petitioners
V/s.
State of Maharashtra and ors. .. Respondents.

Mr. Pravin Shetty i/b RES Legal for the Petitioners.
Mr. Abhay Patki, Addl GP for the Respondents-State.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.
DATE : 24 OCTOBER 2016.**

P.C.

1] In the present petition, as originally filed, the petitioners had challenged the constitutional validity of Maharashtra Factories (Occupational Safety and Health Audit) Rules, 2012 (2012 Rules), as according to the petitioners such Rules were illegal, unconstitutional, null and void.

2] However, during pendency of the present petition, 2012 Rules came to be substituted by the Maharashtra Factories (Safety Audit) Rules 2014 (2014 Rules). The petitioners concede that many of their suggestions were accepted and find reflection in 2014 Rules. However, they have amended the present petition in order to challenge 2014 Rules as well.

3] In particular, the petitioners, question the qualifications which 2014 Rules prescribe for appointment to the post of “Safety Auditor”. Such qualifications have been set out in Schedule-I and the same read thus:

“1. Academic Qualification and Experience:- The Applicant shall hold-

(i) a degree in any branch of Chemical, Mechanical, Electrical or Production Engineering and having five years' experience in manufacturing, maintenance, design, project or safety department in supervisory or above capacity in factories; or

(ii) diploma in branch of Chemical, Mechanical, Electrical or Production branch Engineering and having seven year' experience in manufacturing, maintenance, design, project or safety department in supervisory or above capacity in factories; or

(iii) degree of Bachelor of Science with Physics and/or Chemistry and having ten years' experience in manufacturing or safety department of any factory in the supervisory or above capacity in factories.

And

one year full time Diploma in Industrial Safety recognized by the Board of Technical Education or All India Council of Technical Education or recognized University; or

(iv) degree of diploma in any Branch of Engineering and having fifteen years of experience in Directorate of Industrial Safety and Health (DISH) or fifteen years of experience in the Directorate General Factory Advisory Services and Labour Institute (DGFASLI) or Regional Labour Institute or National Safety Council (NSC) in the capacity of Assistant Director or above.”

4] Petitioner No.1, which claims to be an institution to trains persons to qualify as Safety Officers, have a grievance that 2014 Rules exclude Diploma Holders in Industrial Safety

recognized by the Board of Technical Education or All India Council of Technical Education or recognized University, when it comes to appointment of Safety Auditors. According to the petitioners, such exclusion renders 2014 Rules in their entirety as null and void.

5] Mr. Abhay Patki, learned Addl. GP for the respondents-State, submits that the petition as filed may not be entertained. He submits that the petitioners undertake certain Diploma Courses and the petitioners desire that such Diploma Courses should also be recognized when it comes to appointment to the post of Safety Auditor. He submits that the main intention for instituting this petition is to enable the petitioners to have some recognition for the substandard qualification, which the petitioners issue to its students. He submits that there can be no public interest litigation in service matters. He submits that this is not even a public interest litigation. He submits that the qualifications provided under 2014 Rules are valid and there is nothing arbitrary and unconstitutional in 2014 Rules or in the qualifications prescribed for the post of Safety Auditor.

6] We are satisfied that in the present petition there is no case made out to interfere with the 2014 Rules. The petitioners, obviously cannot maintain any public interest litigation in the service matters. Besides, the motive of the petitioners in instituting this petition is also not free from doubts. In the petition, as originally filed, the petitioners had challenged 2012 Rules.

However, 2012 Rules have been substituted by 2014 Rules. There do not appear to be any serious grounds raised to challenge 2014 Rules except in the context of qualifications to the post of Safety Auditor. Even such grounds on merit no acceptance.

7] The petitioners have not demonstrated why 2014 Rules are illegal, null, void or unconstitutional. The petitioners have also not demonstrated any right to insist that the qualifications, which it issues, should also be included in the Rules for appointment to the post of Safety Auditor. It is not for the petitioners to dictate the inclusion or exclusion of any qualifications to the post of Safety Auditor. If the petitioners, have any suggestions in the matter, the petitioners can always make such suggestions to the appropriate authority which may or may not consider the same. However, merely because a particular qualification is not included in Schedule-I, that, by itself, does not render the Rules as unconstitutional, *ultra vires*, null and void.

8] We see no merits in this petition. This petition is therefore, dismissed. There shall be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)