

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 974 OF 2016**

Nitin Laxman Bhoyar

-vs-

The Assistant Director, Ayurved Nagpur and another

-----  
Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

-----  
Mr. R.D.Dhande, counsel for the petitioner.  
Mr. Ambarish Joshi, AGP for the respondent No.1.  
Mr. Vipul Bhise, counsel for the respondent No.2.

**CORAM : SMT. VASANTI A NAIK &**  
**MRS. SWAPNA JOSHI, JJ.**

**DATE : 22.11.2016.**

By this writ petition, the petitioner seeks a direction against the respondents to grant approval to the appointment of the petitioner on the post of artist. The petitioner has impugned the communication of the respondent No.1 dated 11/12/2015 refusing to grant approval to the appointment of the petitioner on the post of artist.

In pursuance of the advertisement issued by the respondent No.2, inviting applications for appointment on the post of artist, the petitioner had applied for the post. The petitioner was selected by the respondent No.2. According to the advertisement, the requisite qualification for appointment on the full time post of artist was a diploma in arts from a recognized college, a secondary school certificate and a higher secondary school certificate with the knowledge of Marathi and Hindi languages. According to the petitioner, the petitioner possesses the aforesaid requisite qualification. After the respondent No.2 had selected the petitioner and had sent the proposal for appointment of the petitioner on the post of artist, the respondent No.1, by the impugned order, refused to grant approval on the ground that the petitioner was not qualified to be appointed on the post of artist.

Shri Dhande, the learned counsel for the petitioner, states that the petitioner possesses the three requisite qualifications that are prescribed in the advertisement. It is stated that the respondent No.1 was not justified in rejecting the candidature of the petitioner on the ground that the petitioner was not qualified for appointment on the post of artist.

Shri Ambarish Joshi, the learned Assistant Government Pleader appearing for the respondent No.1, states that as per the Recruitment Rules that are framed by the Medical Education and Drugs Department in the year 2012, a person desirous of seeking appointment on the post of artist should possess a degree/diploma in applied arts of a statutory university or school of Art recognized by the government and should possess an experience of not less than one year as an artist/photographer/artist-cum-photographer in an advertising agency or any publicity department of the government. It is stated that the petitioner does not possess the requisite qualification. It is stated that if the respondent No.2 did not issue the advertisement as per the Recruitment Rules, the respondent No.1 would not be obliged to grant approval for the appointment of a candidate, who does not fulfill the criteria prescribed by the Rules. It is stated that since the respondent No.2 did not advertise the post by referring to the qualifications prescribed by the Recruitment Rules, the respondent No.1 did not grant approval for appointment of the petitioner on the post of artist.

On a perusal of the Recruitment Rules as also the advertisement, it appears that the qualifications mentioned in the advertisement are not in accordance with the Rules. If that is so, the education authorities would not be obliged to grant approval for the appointment of a candidate on the advertised post merely because he/she fulfills the criteria laid down in the advertisement though the said criteria is not in consonance with the Rules framed by the government. It would be necessary for an educational institution to advertise the post by referring to the correct eligibility criteria in the advertisement. It is apparent from a perusal of the Rules and the advertisement that the advertisement was not issued by the respondent

No.2 in accordance with the qualification criteria, prescribed in the Rules. We, therefore, do not find any illegality in the action on the part of the respondent No.1 in refusing to grant approval for appointment of the petitioner on the post of artist.

In the result, the writ petition is dismissed with no order as to costs.

**JUDGE**

**JUDGE**

KHUNTE