

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

WRIT PETITION NO.1222 OF 2015

(Mohammad Iftekhar s/o Abdul Salam

vs.

The State of Maharashtra, through its Principal Secretary, Education Department, Mumbai and others)

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

Court's or Judge's Orders

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Shri A.I. Sheikh, Advocate for the petitioner.
Shri K.L. Dharmadhikari, A.G.P. for respondent Nos.1 and 2.
Shri P.B. Patil, Advocate for respondent No.3.
Shri J.Y. Ghorde, Advocate for respondent No.4.

**CORAM : SMT. VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.**

DATE : FEBRUARY 23, 2016

Heard.

02] The challenge in the present writ petition is to the non-inclusion of the petitioner in the final select list for the post of Shikshan Sevak in the Urdu medium category. It is the case of the petitioner that he is an orthopedic handicapped candidate having 50% disability. He has applied for being appointed on the post of Shikshan Sevak from Yavatmal District pursuant to an advertisement issued in that regard in the academic session 2009-10. In said advertisement, one post was reserved for visually handicapped candidates, one post was reserved for candidates with hearing impairment and one post was reserved for candidates having orthopedic handicap. According to the petitioner, he has scored 96 marks in the qualifying examination

which were subsequently corrected to 107. According to the petitioner, the candidates having lesser marks in the handicapped category were shown in the select list and, hence, the petitioner has approached this Court.

03] Shri A.I. Sheikh, learned Counsel for the petitioner submitted that respondent Nos.3 and 4 were not justified in specifying separate cut-off marks for various categories of handicapped candidates. According to him, as the petitioner had scored 107 marks and other handicapped candidates having lesser marks were shown in the select list, the petitioner was also entitled for being considered for appointment. He has relied upon the marks that was scored by candidates having lower vision as well as hearing impairment in that regard. It is, therefore, submitted that the respondents need to be directed to consider the candidature of the petitioner.

04] Shri P.B. Patil, learned Counsel appearing for respondent No.3, on the other hand, submitted that the cut-off marks had been specified for those with lower vision at 101 marks, with orthopedic handicap at 116 marks and those with hearing impairment at 105 marks. It is further submitted that insofar as orthopedic handicapped candidates are concerned, the last candidate selected had secured 116 marks. It is, therefore, submitted that no candidate having lesser marks than the petitioner in the orthopedic handicapped category had been

selected. It is further submitted that the petitioner after participating in the selection process, has subsequently sought to challenge the allotment of separate cut-off marks for various handicapped categories and the same was not permissible. It is, therefore, submitted that the petitioner is not entitled for any relief.

Shri K.L. Dharmadhikari, learned Assistant Government Pleader appearing for respondent Nos.1 and 2 and Shri J.Y. Ghurde, learned Counsel appearing for respondent No.4 supported the stand taken by the respondent No.3.

05] Perusal of the documents on record indicates that in the advertisement, the posts which were reserved for various handicapped categories had been specifically mentioned. It is on the basis of this advertisement that the petitioner had participated in the process of recruitment. Separate cut-off marks were thereafter specifically prescribed by the respondent No.3 for different categories of handicapped candidates. The cut-off marks insofar as orthopedic handicapped candidates are concerned were stipulated as 116 and the petitioner had secured 107 marks. It is therefore clear that no candidate from said category having lessor marks than the petitioner has been selected. In that view of the matter, it cannot be said that the petitioner has been discriminated against while conducting the

recruitment process. The petitioner had not secured the necessary cut-off marks for being considered for selection.

06] In view of aforesaid, there is no case made out to interfere in writ jurisdiction. The petition is, therefore, dismissed with no order as to costs.

**sdw*

JUDGE

JUDGE