

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

**WRIT PETITION NO.1481/2015**

**Devashish Uttamrao Naik**

**...Versus...**

**The Chief Executive Officer, Zilla Parishad, Gadchiroli, Dist. Gadchiroli and others**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

Shri R.R. Rathod, Advocate for petitioner  
Shri J.S. Mokadam, Advocate for respondent no.1  
Shri A.S. Fulzele, AGP for respondent no.2  
Shri S.N. Gaikwad, Advocate for respondent no.4

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

**DATE : 25.01.2016**

By this petition, the petitioner challenges the appointment of the respondent no.4 as a Senior Assistant (Accounts) in Zilla Parishad, Gadchiroli.

In pursuance of an advertisement issued by the Zilla Parishad, the petitioner and the respondent no.4 had applied along with the other candidates for the post of Senior Assistant. The list of eligible and ineligible candidates was declared and the written examination was conducted on 8.11.2014. The petitioner secured 158 marks at the written test and the respondent no.4 secured 170. The petitioner possessed a degree in Commerce and the respondent no.4 possessed a degree in Arts and neither of

them had secured the degree in either the first or the second division. The respondent – Zilla Parishad published the seniority list on 3.12.2014 including the name of the respondent no.4 therein. The petitioner has challenged the selection and appointment of the respondent no.4 on the post of Senior Assistant (Accounts).

According to the petitioner, the respondent – Zilla Parishad ought to have given preference to the petitioner while making the appointment as the petitioner possessed a degree in Commerce, whereas the respondent no.4 possessed a degree in Arts. It is submitted that though in terms of Clause - 10 of the advertisement, a candidate working with the State Government or a Semi-Government Organization was required to apply for the post after securing the necessary permission from the State Government or Semi-Government Organization, the respondent no.4 had not applied after securing the permission. It is submitted that the State Government had not permitted the respondent no.4 to apply in pursuance of the advertisement.

On hearing the learned Counsel for the parties and on a perusal of the advertisement and the qualifications of the petitioner and the respondent no.4, it appears that there is no merit in the submissions made on behalf of the petitioner for challenging the appointment of the respondent no.4. A candidate applying for the post of Senior Assistant (Accounts) was required to possess a degree. A candidate possessing a Commerce degree was entitled to a preference. So also, a candidate securing a degree in the first or the second division was entitled to a preference. Also, a preference could be given to a candidate, who

had worked for not less than three years with the Government or Semi-Government Organization. The question of preference could have arisen if the petitioner and the respondent no.4 had secured equal marks at the written test. However, the petitioner has secured 158 marks at the written examination and the respondent no.4 has secured 170. Both the petitioner and the respondent no.4 possess a degree and none of them had secured the degree in the first or the second division. The petitioner had secured 50.40% marks at the S.S.C. and the respondent no.4 had secured 71.33% marks. At the H.S.S.C. the petitioner had secured 47.50% marks and the respondent no.4 had secured 60%. Be that as it may, since the petitioner and the respondent no.4 had not secured equal marks at the written examination, there was no question of giving preference to either the petitioner or the respondent no.4. Admittedly, the petitioner was less meritorious than the respondent no.4, as per the written test. So also, we do not find any merit in the submission made on behalf of the petitioner that the application of the petitioner was liable to be discarded as he has not secured the necessary permission from the State Government before applying for the post. We also do not find any merit in the submission that even if the respondent no.4 had applied without permission, his appointment order is liable to be cancelled and disciplinary action should be initiated against the respondent no.4 for not securing necessary permission. We find on a perusal of the affidavit-in-reply filed on behalf of the respondent no.2 – Chairman Selection Committee that the respondent no.4 has sought the permission for applying for the said post and appearing at the examination on 1.11.2014 and the

Chief Executive Officer of Zilla Parishad, Hingoli has granted permission to the respondent no.4 to appear at the examination for the post of Senior Assistant (Accounts) on 2.12.2014. Though the permission is granted after the written examination was held, the same cannot be made a ground for effectively challenging the appointment of the respondent no.4 on the post of Senior Assistant (Accounts).

Since there is no merit in either of the submissions made on behalf of the petitioner, the writ petition is dismissed with no order as to costs.

**JUDGE**

**JUDGE**

Wadkar