

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

WRIT PETITION NO.4101/2016

Malti Babulal Gajbe

...Versus...

**Chief Executive Officer, Zilla Parishad, Nagpur Tah. and Distt. Nagpur and
others**

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

Court's or Judge's orders

Shri S.D. Chande, Advocate for petitioner
Mrs. K.R. Deshpande, AGP for respondent no.2

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

DATE : 01.08.2016

By this petition, the petitioner seeks a declaration that condition no.3 (12) of the advertisement is confusing and vague and is liable to be set aside. The petitioner seeks a direction to the respondent – authorities to consider the candidature of the petitioner for appointment on the post of Gram Sevak on contract basis. The petitioner has challenged the selection and appointment of the respondent nos.3 and 4 on the post of Gram Sevak on contract basis.

It is the case of the petitioner that as per the advertisement floated by the respondent – authorities inviting applications for appointment of Gram Sevaks on contract basis, it is not necessary to secure 60% marks at the HSSC examination. It is stated that as per clause 3 (12) of the advertisement, it would

be necessary for a candidate to only pass the HSSC examination or pass an equivalent examination with 60% marks. It is stated that condition no.3 (12) of the advertisement is not clear and the petitioner's candidature is wrongly rejected on the ground that the petitioner has not passed the HSSC examination with 60% marks.

On hearing the learned Counsel for the parties, we find that the relief sought by the petitioner cannot be granted. It is clear on a reading of the advertisement that it would be necessary for a candidate to have secured 60% marks at the HSSC examination or an equivalent examination. This aspect is clarified from the notification issued by the Rural Development and Water Conservation Department of the State Government on 25.8.2011, thereby amending the Maharashtra Zilla Parishads District Service (Recruitment) Rules, 2011. It appears that as per the amended Rules, a candidate could be appointed by nomination only if he possesses at least Higher Secondary School Certificate or equivalent certificate with minimum 60% marks. The petitioner has not secured 60% or more marks.

Since the petitioner did not fulfil the eligibility criteria, the petitioner cannot challenge the rejection of his candidature. The petitioner also cannot be permitted to challenge Clause 3 (12) of the advertisement after participating in the selection process. The petitioner should have challenged the advertisement before applying for the post of Gram Sevak on contract basis. It is well settled that a candidate participating in the selection process cannot question the advertisement or the process at a later stage. It would be necessary to refer to the

judgments of the Hon'ble Supreme Court, reported in **2009 (3) SCC 227, 1997 (4) SCC 426, 2008 (4) SCC 171** and **2010 (12) SCC 576** in this regard.

Since no case is made out by the petitioner for grant of relief, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar

C E R T I F I C A T E

I certify that this order uploaded is a true and correct
copy of original signed order.

Uploaded by : S.S. Wadkar, P.S.

Uploaded on : 02/08/2016