

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

WRIT PETITION NO.57/2016

Devdatta Jagdev Kukadkar ..vs.. State of Maharashtra through its Secretary,
Department of School Education, Mantralaya, Mumbai and others

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

Court's or Judge's orders

Mr. U. J. Deshpande, Advocate for petitioner.
Mrs. Kulkarni, Assistant Government Pleader for respondent no.1
Mr. Amol Deshpande, Advocate for respondent nos. 2 and 3.

CORAM : SMT. VASANTI A. NAIK AND
V. M. DESHPANDE, JJ.

DATE : APRIL 20, 2016

By this writ petition, the petitioner seeks a direction to the respondent-Zilla Parishad to appoint the petitioner on the post of Shikshan Sevak in view of the order dated 05.03.2004 in Writ Petition No.4680/2003 and the letter dated 30.06.2008.

In pursuance of a selection process initiated by the respondent-Zilla Parishad in 2000-2001 for appointment of the Shikshan Sevaks, the petitioner had applied for the post. Since, the petitioner's name was included in the selection list and some vacancies were available with the respondent-Zilla Parishad, the petitioner and some other candidates filed Writ Petition No.4680/2003 seeking appointment on the post of Shikshan Sevaks. It was pointed out by the respondents in the said writ petition that the names of the petitioners were shown below in the merit list and they could be appointed if there are vacancies to accommodate them as per their turn. It appears that the respondent-Zilla Parishad sought guidance of the State Government and the State Government informed

the Zilla Parishad, by communication dated 30.06.2008, to consider appointing the candidates that were not appointed in view of the selection process. Certain other candidates then approached this Court in Writ Petition No.3334/2010 seeking a direction against the Zilla Parishad to implement the order of the Grievance Committee to which the petitioner of this writ petition was not a party. Since, the order of the Grievance Committee was not challenged by the Zilla Parishad, this Court, by order dated 08.12.2010, directed the Zilla Parishad to appoint the five petitioners, that had filed the appeal before the Grievance Committee, on the post of Shikshan Sevak. It is the case of the petitioner that the petitioner is the only person who has been left out and is not appointed on the post of Shikshan Sevak in pursuance of the selection process completed in the year 2001. The petitioner has, therefore, filed the instant writ petition seeking a direction to the respondent-Zilla Parishad to appoint the petitioner on the post of the Shikshan Sevak.

On hearing the learned counsel for the petitioner, we find that the petitioner has abused the process of the Court by filing the writ petition for seeking a direction to the respondent-Zilla Parishad to appoint the petitioner on the post of Shikshan Sevak after a period of more than 15 years from the date of publication of the select list. In pursuance of the advertisement issued in the year 2000-2001, the petitioner had applied for the post of Shikshan Sevak. Admittedly, the petitioner was not appointed as the name of the petitioner was down below in the seniority list. The petitioner had filed the writ petition along with several others in the year 2003 seeking his appointment on the post of Shikshan Sevak and the said writ petition was disposed of

after accepting the statement made on behalf of the Zilla Parishad that in case of vacancy, the candidates would be appointed as per their turn. If the petitioner was not appointed within a reasonable time from the date of disposal of the said writ petition in the year 2004, the petitioner ought to have approached this Court or any other appropriate Court or forum for the redressal of his grievance. The petitioner, however, slept over the matter for a period of eleven years till the instant petition was filed on the basis of the report of the Zilla Parishad, dated 02.04.2015. The other candidates that were not appointed despite the statement of the Zilla Parishad in the previous writ petition filed in the year 2003, had approached the Grievance Committee in the year 2006 for a direction to the respondent-Zilla Parishad to appoint them on the posts of the Shikshan Sevaks. The petitioner was not one of them. The petitioner had not challenged the inaction on the part of the respondent-Zilla Parishad in appointing the petitioner. It is well settled that a selection list gets exhausted within a period of one year or in some departments, within a period of two years as per the State policy. In the instant case, the petitioner is seeking appointment on the post of the Shikshan Sevak in view of the inclusion of his name in the select list in the year 2001. It is well settled that the inclusion of the name of a candidate in the select list cannot confer any right on a candidate to claim appointment. Merely because this Court has allowed the writ petition filed by some other candidates in the year 2010, the petitioner cannot seek his appointment in the year 2016 by filing a petition for appointment, on the basis of the selection process initiated in the year 2000-2001. The petition suffers from latches. Merely because there is a exchange of communications

between the State Government and the Zilla Parishad, the petitioner would have no right to claim appointment on a stale claim, after more than 15 years.

In the circumstances of the case, we dismiss the writ petition with costs of Rs.3,000/-

JUDGE

JUDGE

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