

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

P.I.L. No.157 of 2016
(Virendra s/o. Gajanan Dahikar .vs. State and anr.)

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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Mr.O.D.Kakde, Advocate for the Petitioner.
Mrs.Bharti Dangre, G.P. for respondent nos. 1 and 2.

**CORAM : B.R.GAVAI AND
V.M.DESHPANDE, JJ.**

DATE : 17.11.2016.

Heard.

The present Public Interest Litigation has been filed by the petitioner basically challenging the notification dt.3.2.2015 issued by the Law and Judicial Department, vide which sub-rules 4 and 5 of Rule 13 of the Maharashtra Law Officers (Appointment, Conditions of Service and Remuneration) Rules, 1984 have been amended.

It is to be noted that the rules as existing prior to the amendment read thus :

"13.Appointment :

(1)

(2)

(3)

(4) The Collector of every district other than the district of the City of Bombay and the Bombay Sururban District shall invite applications from

advocates in such manner as he thinks fit, for inclusion of the names of suitable candidates from amongst them, with the approval of the Government, in the panel for appointment of District Government Pleader or Additional or Assistant Government Pleader or Honorary Assistant to the District Government Pleader, or as the case may be, Subordinate Government Pleader; and the Government shall, select a candidate from the panel, so prepared for any such appointment.

(5) The Commissioner of the Pune Division, Nagpur Division, Kolhapur Division and Aurangabad Division shall invite applications from advocates in such manner as he thinks fit, for inclusion of the names of suitable candidates from amongst them, with the approval of the Government, in the panel for appointment of a Special Government Pleader for the Maharashtra Revenue Tribunal at Pune, Nagpur, Kolhapur or as the case may be, Aurangabad; and the Government shall select a candidate from the panel so prepared for any such appointment.

Noticing that the candidates appointed on the posts of Government Pleader and Additional Government Pleaders were not meritorious and various undeserving persons were appointed, this Court had passed an order in Criminal Appeal No.161 of 2001, dt.11.9.2014 directing the State Government to introduce an element of transparency in making the appointments. The Court had also given a suggestion that, while making appointments,

it will be appropriate that a Selection Committee consisting of learned Advocate General and Principal Secretary (Law and Judiciary) interviews the candidates prior to their selection.

The State Government had moved this Court for modification of the said order contending therein that it will not be possible for the learned Advocate General and Principal Secretary to conduct interviews throughout the State. As such, vide our order dt.12.12.2014 passed on Criminal Application (APPA) No.711 of 2014 in said Criminal Appeal No.161 of 2001, we had modified our order and directed that, insofar as the High Court is concerned, the interviews shall be conducted by the nominee of learned Advocate General and Joint Secretary, Law and Judiciary Department. We had also permitted the State Government to conduct interviews at District Level by the Committee consisting of nominee of learned Advocate General and the Collector.

It appears that the rules are amended in pursuance of the directions given by this Court to ensure that an element of merit is followed while making appointments.

It is the contention of the learned Counsel for the petitioner that, in the amended rules, a total go-bye is given to the requirement of consultation with the learned Sessions Judge or the High Court as envisaged under Section 24 of the Code of Criminal Procedure.

It is to be noted that, by the Maharashtra Act No.34 of 1981, the words '*after consultation with the High Court*' in sub-section 1 of section 24 and the words '*in consultation with the Sessions Judge*' in sub-section 4 of

Section 24 have been deleted.

It can thus be seen that the submission made in that behalf is in ignorance of the Maharashtra amendment to Section 24. As already discussed hereinabove, the rules are amended in pursuance to the orders passed by this Court so as to ensure that an element of merit is followed while making appointments.

In that view of the matter, we find that the challenge to the rules at the instance of petitioner who has nothing to do with the legal profession is without substance.

Some wild allegations are made in the petition that the nominees of Advocate General are nominated on political considerations. However, not a single instance has been given to substantiate such an allegation.

In that view of the above, we find that the present Public Interest Litigation is without substance and as such, it is dismissed.

No order as to costs.

JUDGE

JUDGE