

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

20 WRIT PETITION NO. 1818 OF 2017

MAHESH PRALHAD RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. Jadhav Kiran D
AGP for Respondents State: Mr. R. B. Bagul

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 13th February, 2017

ORDER:

1. Mr. Jadhav, the learned counsel for the petitioner submits that the petitioner and respondent No.3 applied for the post of Police Patil pursuant to the advertisement. The learned counsel submits that the petitioner and respondent No.3, both secured 156 marks. The learned counsel for the petitioner submits that in view of Government Resolution dated 27th January, 2008, when both candidates secure equal marks, then the candidate who has got better qualification has to be preferred and appointed. The petitioner has a Master's Degree whereas respondent No.3 only has a bachelor degree. Minimum qualification required is HSC. As such, the said qualification was stated in the application.

2. The learned counsel submits that immediately on the date of publication of selection list, the petitioner filed representation, stating that the petitioner has master degree in Arts. The petitioner also filed another application on the same day saying that the petitioner belongs to V.J. category. The said aspect has not been considered by the respondent Authority. Even the respondent Authority failed to hear the petitioner. According to the learned counsel, the Tribunal failed to consider this aspect in its correct perspective and arrived at erroneous conclusion.

3. The learned AGP submits that whatever documents were filed before the Authority, the same were considered while selecting respondent No.3.

4. We have considered the submissions.

5. The petitioner had the opportunity to submit documents before the respondent authority only after getting knowledge that the petitioner and respondent No.3 both have secured equal marks. It has been observed by the Tribunal that the petitioner did not submit his Master's Degree certificate whereas, respondent no.3 submitted his Bachelor Degree. It would

appear that even as per application of the petitioner, the petitioner did not possess the Master Degree at the relevant time but had only appeared for the examination. As such, it cannot be said that the petitioner possessed master degree on the date when the application was to be submitted pursuant to the advertisement.

6. As far as V.J. category is concerned, the petitioner and respondent no.3 both applied from open Project Affect Category. PAP category itself is a reservation. Be that as it may, the certificate was also not before the authority, substantiating the claim of the petitioner of being Vimukta Jati. It is not disputed that respondent no.3 is elder in age to the petitioner. The tribunal has considered the said aspects. Respondent no.3 is already appointed almost 5 to 6 months back. Considering all these aspects of the matter, no error has been committed by the tribunal. In view of that writ petition disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC