

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

Writ Petition No. 03746 of 2016

District : Beed

Balasaheb s/o. Vithalrao Adnak,
Age : 38 years,
Occupation : Service,
R/o. Vidya Nagar (West),
Barshi Road, Beed,
Taluka & District Beed.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Co-operation, Marketing &
Textile Department,
Mantralaya, Mumbai - 32.
2. The Director,
Agricultural Marketing,
Pune, Central Building,
Pune - 1.
3. The District Deputy Registrar,
Co-operative Societies, Beed.
4. Agricultural Produce Market
Committee,
Beed,
through its Secretary.
5. Krushna s/o. Ashokrao Kure,
Age : Major,
Occupation : Service.
6. Ganesh s/o. Ramrao Ghumre,
Age : Major,
Occupation : Service.
7. Rahul s/o. Vasantrao Vidhate,
Age : Major,
Occupation : Service.

8. Datta s/o. Dadarao Bahir,
Age : Major,
Occupation : Service.
9. Ram s/o. Bajarang Shinde,
Age : Major,
Occupation : Service.
10. Balaji s/o. Sundar Shelke,
Age : Major,
Occupation : Service.
11. Shahu s/o. Baliram Khose,
Age : Major,
Occupation : Service.
12. Shaikh Rizwan
s/o. Shaikh Gaffar,
Age : Major,
Occupation : Service.
13. Abhijeet s/o. Arun Mhaske,
Age : Major,
Occupation : Service.
14. Amit s/o. Vasant Dhanve,
Age : Major,
Occupation : Service.

Respondent nos.05 to 14
R/o. Agriculture Produce
Market Committee, Beed,
District Beed.

.. Respondents.

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Mr. Kishor D. Khade, Advocate, for the petitioner.

*Mr. S.W. Munde, Asst. Government Pleader, for
respondent nos.01 to 03.*

Mr. B.R. Sable, Advocate, for respondent no.04.

*Mr. S.S. Manale, Advocate, for respondent
nos.05 to 14.*

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**CORAM : S.V. GANGAPURWALA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 01ST NOVEMBER 2017

ORAL ORDER (Per S.V. Gangapurwala, J.) :

01. Mr. K.D. Khade, learned Counsel for the petitioner, submits that the petitioner pursuant to the advertisement dated 02nd December, 2015 issued by respondent no.04, applied for the post of Clerk from open category. The learned Counsel submits that the petitioner had worked as temporary employee with respondent no.04 for a period of seven years. As per the condition in the advertisement, preference is to be given to a candidate who had earlier worked with the Agricultural Produce Market Committee. The learned Counsel further submits that the respondent no.04 committed material irregularity in the selection process. The list from employment exchange was not called for and directly advertisement was issued. The candidates are to be recommended by the Sub-Committee. The Sub-Committee was never constituted. As such, the selection itself is illegal. The learned Counsel relies upon Sub-Rule 07 of Rule 100 of the Maharashtra Agricultural Produce Marketing (Regulation) Rules, 1967, so also the recruitment rules framed by the Director of Marketing. The learned Counsel submits that as the names were not recommended by the Sub-Committee and the Sub-Committee was not constituted as per law, the selection itself stands vitiated.

02. The learned Counsel for respondent no.04 - Committee submits that as per resolution of respondent no.04, Committee was constituted, even the Assistant Registrar was invited to be a part of the Selection Committee and selection was done. The selection of candidates is also approved by the Assistant Registrar. The Sub-Committee is validly constituted. No illegality is committed.

03. It is trite that after participating in the selection process and being unsuccessful therein, a candidate cannot turn around and challenge the selection process. Sub-Rule 07 of Rule 100 of the Maharashtra Agricultural Produce Marketing (Regulation) Rules, 1967, requires that no person shall be appointed to any post by a Market Committee unless such appointment is made in accordance with the bye-laws made for recruitment to such posts and in accordance with the recommendations made by a sub-committee of the Market Committee established under its bye-laws. The Sub-Committee was established, may be at the far end. Selection Committee was constituted by passing a resolution. The petitioner had participated in the selection process and after having been unsuccessful, is challenging the same. Such challenge could not be permissible. We do not find any manifest illegality. The *mala fides* in the selection process are not spelt out.

04. It appears that the duly constituted

Selection Committee has selected the candidates and the same is also approved by the office of the Assistant Registrar. The petitioner had only applied for the post of Clerk from open category. As such, the petitioner would not be entitled to challenge complete selection process in which he was not concerned.

05. Considering the aforesaid, no interference is called for. The writ petition is accordingly dismissed. No costs.

(Smt. Vibha Kankanwadi)
JUDGE

(S.V. Gangapurwala)
JUDGE

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