

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

**WRIT PETITION NO. 4455 OF 2006**

Pradeep Shivajirao Khade

Age : 25 years, occu.: nil

R/o "Pitrachaya", Panchshil Nagar,

Parali Vaidyanath, Tal.Parali,

District Beed.

**Petitioner.**

**Versus**

1. The State of Maharashtra  
Through the Secretary,  
Agriculture Department,  
Mantralaya, Mumbai-32.
2. The Divisional Jt. Director  
of Agriculture, Nagpur  
Division, Nagpur.
3. The Commissioner of Agriculture,  
Agricultural Commissioner's  
Office, Maharashtra State,  
Pune.

**Respondents.**

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Mr. U.B. Bondar, Advocate for the petitioner.

Smt. M.A. Deshpande, Addl.G.P. for respondent Nos.1to3

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**CORAM : RAVINDRA V.GHUGE &  
SUNIL K.KOTWAL, JJ.**

**Reserved on : 23.11.2017.**

**Pronounced on : 05.12.2017.**

**JUDGMENT : (PER SUNIL K. KOTWAL, J.)**

1. This Writ Petition is filed under Article 226 of the Constitution of India for quashment of the order dated 13.04.2006 passed by the Maharashtra Administrative Tribunal (hereinafter referred as "MAT") in Original Application No. 1007/2004 and the order passed by Divisional Joint Director of Agriculture, Nagpur Division dated 11.11.2004 and for issuance of directions to respondent No.2 to appoint the petitioner on the post of 'Krushi Sevak' w.e.f. 01.09.2004.

2. Respondent No.1 is the State of Maharashtra. Respondent No.2 is the Divisional Joint Director of Agriculture, Nagpur Division and respondent No.3 is the Commissioner of Agriculture, Maharashtra State, Pune.

3. In this proceeding the admitted facts in between the parties are that on 25.02.2004 the respondents advertised total 3954 posts of 'Krushi Sevak', including 402 posts for Nagpur Region with all details about the reservations. As per

vertical reservation, 24 posts were reserved for NT(D) category. The petitioner being eligible and qualified, applied for the post of 'Krushi Sevak' by submitting an application dated 01.03.2004 alongwith necessary documents. On 16.08.2004, respondent No.2 had passed an order in respect of the selected candidates for the post of Krushi Sevak. Name of the petitioner was shown at Sr. No.4 from the category of "project affected person". The petitioner also received a letter dated 21.08.2004 informing him that he was selected on the post of Krushi Sevak from the category of 'project affected person' and he was requested to remain present with the original certificates for verification.

4. Contention of the petitioner is that when he appeared before the concerned Officer with the original certificate of project affected person, the same was verified. However, later on the petitioner came to know that his appointment was cancelled. Therefore, the petitioner approached the MAT by filing Original Application

No.1007/2004. However, after hearing the parties, the same was rejected on 13.04.2006.

5. Contention of the petitioner is that though he applied from NT(D) reserved category and though out of 402 posts, 5% posts were reserved for project affected persons, his appointment was illegally cancelled on the ground that his selection was from the category of "ex-serviceman" and he failed to produce the requisite certificate of ex-serviceman. According to the petitioner, in fact, he never applied from the category of ex-serviceman.

6. By filing reply affidavit, respondent Nos.2 and 3 countered the claim of the petitioner on the ground that at the time of the scrutiny of the documents, it was found that the petitioner was not eligible from the category of ex-serviceman as he did not file the certificate of ex-serviceman. According to the respondents, as per the Government Resolution, 5% posts were reserved for the project affected person, including the earthquake affected candidates. 3%

quota was reserved for earthquake affected candidates and only 2% quota was reserved for NT(D) project affected persons. Therefore, out of 24 posts reserved for NT(D) candidates, as per horizontal reservation, 12 posts were reserved for NT(D) male candidates, one post was reserved for earthquake affected person and 4 posts were reserved for ex-serviceman. Considering only 2% reservation for the project affected persons, out of total 5% (including 3% for the earthquake affected persons), no post can be carved out, as result, for the project affected person in NT(D) category.

7. Though initially the petitioner was selected from NT(D) ex-serviceman category, at the time of the verification of documents, he could not submit the certificate of ex-serviceman. Even in written examination, the petitioner secured only 38.63% marks and his name was far below in the merit list of NT(D) category candidates. Therefore, the petitioner cannot be selected even from the NT(D) male category. In the result, the

initial appointment of the petitioner from NT(D) ex-serviceman category was legally cancelled by the respondents.

8. Learned Counsel for the petitioner submitted that the petitioner never applied from NT(D) ex-serviceman category and he applied only from the category of NT(D) project affected persons. On the other hand, the learned A.G.P. for the State submitted that the petitioner had applied from NT(D) project affected persons and ex-serviceman categories as per the recitals in the original Application Form of the petitioner.

9. Therefore, initially we have carefully gone through the Application Form of the petitioner, made available for our perusal. After going through the Application Form, it emerges that the petitioner tick marked in Column No.5 for ex-serviceman. He also tick marked in Column No.6 as project affected person as well as in column No.8 for NT(D) category. Thus, obviously from the Application Form of the petitioner submitted to the respondents, it emerges that the petitioner

applied from NT(D) project affected person and NT(D) ex-serviceman categories. This Application Form falsifies the contention of the petitioner that he never applied from the ex-serviceman category.

10. From the reply submitted by the respondents and additional information submitted by the learned A.G.P., it becomes clear that as the petitioner had applied from the NT(D) ex-serviceman category, he was initially selected from the category of NT(D) ex-serviceman though he secured only 38.63 marks in the Screening Test. However, at the time of verification of document, when the petitioner could not produce the ex-serviceman certificate, which he never possessed, his selection from the NT(D) ex-serviceman category was rightly cancelled by the respondents.

11. Undisputedly, the petitioner did not possess a certificate of ex-serviceman as he was never a serviceman. Therefore, the petitioner could not be considered as a candidate for NT(D) ex-serviceman category.

12. The next contention of the learned Counsel for the petitioner is that 5% posts out of 402 posts were reserved for the project affected persons, and therefore, from that category the petitioner ought to have been selected.

13. However, the learned A.G.P. has drawn our attention towards the Government Resolution dated 09.08.1995 which indicates that out of 5% reservation for the project affected persons, a slot of 3% was reserved for earthquake affected persons and only a slot of 2% was reserved for the project affected persons.

14. After going the the advertisement dated 25.02.2004, it emerges that for the Nagpur Region, 402 posts were advertised and out of these posts, 24 posts were reserved for NT(D) category, for which the petitioner had applied. If these 24 posts reserved for NT(D) category are sub-divided in accordance with horizontal social reservation, the exact posts reserved for the various categories are shown in the chart given as under :-

| Wanjari NT(D) Category. |              |      |                                  |                               |                     |
|-------------------------|--------------|------|----------------------------------|-------------------------------|---------------------|
| Total Posts             | Female (30%) | Male | Earthquake affected persons (3%) | Project affected persons (2%) | Ex-serviceman (15%) |
| 24                      | 7            | 12   | 1                                | 0                             | 4                   |

15. Thus, if the percentage of horizontal reservation and 24 posts reserved for NT(D) category are considered together with the Government Resolution dated 09.08.1995, then it becomes crystal clear that no post can be carved out as reserved for the project affected category. Thus, obviously the petitioner cannot claim reservation as 'project affected NT(D) candidate' out of 24 posts reserved for the entire NT(D) candidates.

16. The petitioner being a male cannot be considered for the 7 posts reserved for female NT(D) candidates. For NT(D) male candidates who are neither earthquake affected nor project affected persons, only 12 posts are available. In the merit list of NT(D) category of male candidates, the petitioner is far below and the last candidate selected from NT(D) male category

secured 66.50% marks in the written test. Therefore, obviously the petitioner cannot be appointed even from NT(D) male category. The candidate who is selected from the earthquake affected category had secured 54.63% marks. Therefore, even otherwise the petitioner cannot compete with the candidates selected from the earthquake affected category.

17. In the result, we have no hesitation to hold that, even after considering the claim of the petitioner from every angle, he cannot be selected for the post of 'Krushi Sevak' as he could not cross over the benchmark prescribed for such selection. While rejecting the Original Application No. 1007/2004 the learned Tribunal has already considered all the above discussed aspects. Therefore, we do not find any perversity in the order passed by the learned Tribunal which calls for no interference.

18. As the selection letter was issued to the petitioner on the basis of the provisional list of selection, which was subject to verification of

the documents, the petitioner cannot take the benefit of that selection letter. Respondent No.2 has already given an explanation that reference of "project affected candidate" in a letter dated 21.08.2004 was an inadvertent mistake. Petitioner cannot claim on the basis of this letter that he was selected from the category of project affected person, when no slot was available for project affected person out of 24 NT(D) candidates. Even the allegations regarding demand of bribe, being baseless, deserves to be ignored.

19. In view of above said observation, we hold that this Petition being devoid of merit, deserves to be dismissed.

20. Accordingly, we pass the following order.

**ORDER**

- a) Writ Petition No.4455/2006 is dismissed.
- b) Rule is discharged.
- c) No order as to costs.

**(SUNIL K. KOTWAL)**  
**JUDGE**

**( RAVINDRA V. GHUGE)**  
**JUDGE**