

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

WRIT PETITION NO. 5126 OF 2017

Sandip S/o Ambadas Kale,
Age : 31 Years, Occu. : Govt. Service,
R/o Plot No. 33, Ganesh Nagar,
Bidkin, Tal. Paithan, Dist. Aurangabad. .. Petitioner

Versus

- 1) Union of India,
(Copy to be served on Assistant
Solicitor General, High Court
of Bombay, Bench at Aurangabad).
- 2) Union Public Service Commission,
Dholpur House, Shahajahan Road,
New Delhi – 110 069. .. Respondents

Shri Jiwan J. Patil, Advocate for the Petitioner.
Mr. Deepali Jape, Standing Counsel for Respondent Nos. 1 and
2.

**CORAM : ANOOP V. MOHTA AND
SUNIL K. KOTWAL, JJ.
DATE : 15TH JUNE, 2017.**

ORAL JUDGMENT (*Per Anoop V. Mohta, J.*) :-

. Rule. Rule made returnable forthwith. Petition is heard finally with consent of learned counsel for the parties.

02. Petition is based upon an advertisement dated 22.02.2017

calling applications from aspirant candidates for various civil services. The last date for filling application form was 17.3.2017 till 18-00 hours. As per the instructions to candidates applying for Civil Services (Preliminary) Examination for filling on-line applications, they should use the website <http://www.upsconline.nic.in>.

03. We have also noted that Part – II of registration consists of three steps'. Step – I is filling of payment details. Step – II is selection of examination centre and Step – III is uploading of photograph and signature. There can not be any issue that the candidate is required to complete the form within time, provide details and make payment as required. There are various steps required to be completed with details so asked including uploading of jpg format photograph, signature and consent to the declaration, apart from prescribed payment of fee within time.

04. There is no issue, in view of the reply filed by contesting respondent no.2, that petitioner completed payment of fee at about 17-12 hours. However, petitioner did not complete Part – II of application as he failed to upload his photograph, signature and consent to the declaration. That resulted into, as stated, submission of incomplete application for examination in time.

05. Petitioner has specifically averred that at about 15-20 p.m., on the date of application, he was trying to upload jpg format of photograph and signature, but the site did not respond. The site was completely hanged and after 6-00 p.m., there was no response from site, as time was over.

06. The petitioner therefore, immediately at about 6.24 p.m. addressed an e-mail to UPSC under address upsc_chairman@nic.in and pointed out above technical problem of UPSC site in Maharashtra and what he faced to complete the form within time. Petitioner again at 10.43 p.m. pointed out the difficulty. The technical problem prevented him from submitting the form in time. It is noted even by respondent No. 2 in the reply that petitioner has been submitting such forms earlier also through the site in question. The petitioner, therefore, has experience and knowledge how to operate such site and how to fill in on-line forms. On earlier occasions, even by opening site in question as required, the petitioner had already kept/submitted his photograph and signature duly scanned in jpg format as required. So there was no reason for petitioner not to have those jpg format ready at the time of filling this application. There was no reason for him, if there was response and/or site was working not to complete the requisite on-line information. Everything was working properly earlier, but at the relevant time, as site was not responding when petitioner

wanted to submit the details in jpg format. The same could not be uploaded, thus, in no way this can be stated to be intentional or deliberate act of petitioner. The fact remains that petitioner was unable to complete the form, who was otherwise ready and eligible. For the technical failure of website, he could not completed the same, which resulted into rejection of his application for want of submission of details so required.

07. Respondent, in its reply, placed on record annexure dated 19.04.2017 referring to various grievances received from the petitioner about UPSC (Preliminary) Examination 2017 regarding non submission of on-line application form, has replied for the first time that the candidates or the petitioner should not have waited for last date for submission of on-line application. It is indeed an acceptable and an ideal situation. But, there is no bar that the candidate cannot apply on last date. The petitioner has applied on last date at about 5.00 p.m. and submitted the form in all respects including the payment, however, was unable to upload photograph and signature because of technical defect of site. The contesting respondent, except simple denial and putting burden upon petitioner, denied the fact of crashing of server, as alleged by petitioner. This factual aspect, cannot be gone into merely because of denial of the respondent. Respondent No. 2 should have immediately responded, when the petitioner through e-mail at 6.24 p.m.,

communicated to the concerned authority/department.

08. Petition is of 12.04.2017 & in response to notice issued by this Court on 18.04.2017, the delayed reply dated 31.05.2017 filed by respondent No. 2. There is no other remedy and/or solution to such factual, technical difficulties faced by petitioner, so recorded above. We have also noted that, there is no remedy whatsoever available to petitioner and/or other persons, who for such technical defect, unable to complete the form in time, though he was ready to upload all the details available with him.

09. We could not have entertained such petition in given case for delay and latches and/or the grievance so raised, but considering the fact and bonafide action so initiated by petitioner immediately pointing out the defects and technical problem of inability to upload details in time and as the question is of career of petitioner and/or like students/candidates and also for fact that there is no justification and/or remedy made available by respondent No. 2 to handle and tackle with such problem, we are inclined to entertain present petition, in the interest of justice. The persons like petitioner should not be made to suffer because of website technical defect and/or difficulties on the last day of filling such applications.

10. As per advertisement, the examination is scheduled on

18.06.2017. Petitioner admittedly did not receive any hall ticket/e-admission certificate within three weeks before commencement of examination and as the same is requisite for candidates to down-load e-admission certificate and as no e-admission certificate is required to be sent by post, we are inclined to direct respondent No. 2 to issue e-admission certificate.

11. The petitioner has completed all other formalities in time. Even earlier jpg format photograph and signature was available with respondent No. 2, as petitioner had already appeared in 2016 for such examination. Petitioner is directed to submit or send e-mail to respondent No. 2 again, if required, jpg format photograph and signature. As there is no sufficient time left and as case is made out, we are inclined to pass following order to avoid further delay.

O R D E R

- A. Respondent No. 2 is directed to issue e-admission certificate and/or hall ticket in the name of petitioner, (in whichever name it is called).
- B. Respondent No. 2 is also directed to accept photograph and signature of petitioner, if required, and it is further directed to respondent No. 2 and/or its agent/examination

coordinator/centre supervisor to permit the petitioner to appear for Civil Services (Preliminary) Examination, which is to be held on 18.06.2017 as per advertisement dated 22.02.2017, at Aurangabad.

- C. Rule is made absolute accordingly. No costs.
- D. Parties to act on the basis of authenticated copy.
- E. As order is passed in open Court, respondent No. 2 to take steps without waiting for certified copy of the judgment/order.

Sd/-

[SUNIL K. KOTWAL, J.]

Sd/-

[ANOOP V. MOHTA, J.]

bsb/June 17