

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

WRIT PETITION NO. 4359 OF 2011

Shaikh Chand Pasha s/o Shaikh Abdul
Age: 40 years, Occu. At present Nil,
R/o Raviwar Peth (Bagadi).
Bouddh Wada Road, Vasmat,
Taluka: Vasmat, District : Hingoli .. Petitioner

versus

- 1) The State of Maharashtra
through its Secretary,
Department of Civil Protection
and Home Guard (Under the
Department of Home Affairs),
M. S., Mantralaya, Mumba.
- 2) The Commandant General,
Home Guards, M.S.,
Old Secretariat (Extension),
M. G. Road, Mumbai.
- 3) The Senior Administrative Officer
(Administration and policy)
Civil Protection and Home Guard,
M. S., O/o The Commandant General,
Home Gurards, M.S. Old Secretariat
(Extension), M.G. Road, Mumbai.
- 4) The District Commandant,
Home Guards, Hingoli,
Taluka and District : Hingoli. .. Respondents

Mr. Rajendrreaa S. Deshmukkh, Advocate for petitioner
Mr. S. K. Tambe, Assistant Government Pleader for respondent

CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.

DATE : 20th September, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for petitioner and learned Assistant Government Pleader for respondents by consent finally.

2. Petitioner purports to challenge order dated 28-12-2010 whereunder petitioner's appointment as taluka commandant of home guards, Basmat squad has been brought to an end.

3. Learned counsel for the petitioner Mr. Rajendrraa Deshmukkh has submitted that the reasons for which the petitioner has not been selected may not have any legal basis having regard to the provisions of the Maharashtra Home Guards Act, 1947 and rules thereunder. He particularly refers to section 3 as well as rules 3, 8 and 9. He submits, even if the instructions are so given, those would be in excess of the powers and bounds of the provisions. He, therefore, submits that the impugned order dated 28-10-2010 is liable to be set aside.

4. Learned Assistant Government Pleader appearing for respondents submits that although submissions as aforesaid are advanced, it may not be ignored that the instructions so issued

and followed for selected candidates in present case, are uniformly applied across the Maharashtra State and there is no variation in the same. Even the persons who were interviewed for the post of taluka commandant, home guards, Basmat squad, a few other candidates were not selected having regard to aforesaid instructions and for similar reasons as were considered in respect of the petitioner by the interviewing committee. He submits, in the absence of challenge to those instructions, it is difficult to sustain the challenge to impugned order as has been posed nor impugned orders can be flawed.

5. It appears that pursuant to the selection procedure employed for selection of taluka commandant, home guard, Basmat taluka squad as many as fourteen candidates were called for interview and from among them, four persons as have been referred to on page 70 of the reply had been selected. Petitioner did not figure in the said select list for the reasons as are recorded by the interviewing committee as are appearing on page 73 of the reply.

6. It appears that since 28-12-2010, petitioner could not continue with the post as desired. It is not a case wherein it can be said that petitioner is a candidate selected under procedure employed nor such is the case of petitioner. In any case, since the guidelines / instructions have been uniformly applied and petition does not pose challenge to those instructions, we do not consider it

expedient to unsettle impugned order while the petitioner had not been selected at all. The impugned order, as such, is not liable to be faulted with.

7. Writ petition, as such, does not carry any substance and the same accordingly stands dismissed. Rule discharged.

SANGITRAO S. PATIL
JUDGE

SUNIL P. DESHMUKH,
JUDGE

pnd