

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

WRIT PETITION NO. 5287 OF 2017

Sambhaji Manikrao Mane

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri V. C. Patil, Advocate for the Petitioner.

Shri P. N. Kutti, A.G.P. for the Respondent No. 1.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 19TH APRIL, 2017.

PER COURT :

. The petitioner is unsuccessful in the selection process conducted by the respondent No. 5 for the post of Assistant Section Officer.

2. Mr. Patil, the learned counsel for the petitioner submits that, the experience certificate submitted by the respondent No. 2 of having worked with the respondent No. 4 is illegal. The entry of the respondent No. 2 with the respondent No. 4 was by deceit, in the sense, when the respondent No. 2 was appointed in the year 2007 by the respondent No. 4 on 25.09.2007, at that time, he had not given his resignation with the respondent No. 3, where the respondent No. 2 was working. After the respondent

No. 2 was appointed by the respondent No. 4, thereafter the respondent No. 2 after fifteen days gave resignation application to the respondent No. 3 without stating that he is appointed with the respondent No. 4. He only mentioned that, it is due to his personal reasons, he is not in a position to continue his service with the respondent No. 3. According to the learned counsel he could not have done so in view of Rule 9 of the Maharashtra Zilla Parishad District Service (Recruitment) Rules 1967. The learned counsel also refers to Rule 14 of the Maharashtra Zilla Parishad District Service (Discipline and Appeal) Rules 1964. According to the learned counsel the experience certificate as such issued by the respondent No. 4 is itself illegal, as entry of respondent No. 2 with the respondent No. 4 was illegal. The petitioner has raised objection in that regard with the respondent No. 5, but cognizance of the same is not taken on the ground that the objection of the petitioner is with regard to the respondent No. 2, when he was in the employment with the respondent No. 4. The learned counsel also relies on the Government Resolution dated 12.10.1993.

3. The respondent No. 2 has been selected by the respondent No. 4 after due selection process. It is not disputed that, the respondent No. 2 was working with the respondent No. 4 since the year 2007 to 2014. He had experience of work with the respondent No. 4 for seven years. The experience required for

the said post was of three years. If the respondent No. 2 had not tendered his resignation with the respondent No. 3 at the time of his appointment with the respondent No. 4, then it is for the respondent No. 4 to take action if any and if it so desire. While taking employment with the respondent No. 5 in the year 2014, it cannot be said that the experience certificate produced by the respondent No. 2 of having worked with the Zilla Parishad, Jalna from 2007 was false or erroneous. It is not disputed that, the respondent No. 2 has actually worked with the Zilla Parishad Jalna for the said period. It is not a case that his appointment with the respondent No. 4 was challenged. Now his appointment with the respondent No. 5 is sought to be challenged by the petitioner. The ground of challenge as such would not be proper, as the respondent No. 2 had the necessary experience of having worked for seven years with the Zilla Parishad, Jalna.

4. If said rule 9 of the Maharashtra Zilla Parishad District Service (Recruitment) Rules are to be invoked, it is for the institution to invoke the same. The petitioner cannot make the grievance of it. The writ petition accordingly is disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]