

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

WRIT PETITION NO. 5025 OF 2016

Arjun s/o Maruti Gore,
Age : 45 years, Occ. Service as
Deputy Director (Sericulture), Nagpur
R/o C/o. Director (Sericulture)
Maharashtra State, New Administrative
Building No.2, 6th Floor, B-Wing,
Civil Lines, Nagpur.

.. **Petitioner**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Textile Department, M.S.
Mantralaya, Mumbai – 32.
2. The Maharashtra Public Service
Commission, 5,6,7,8 Floor,
Kuparej Telephone Bhavan Building,
Maharshi Karve Marg,
Mumbai – 21.
3. Dilip s/o Ashruji Hake,
Age : 51 years, Occu: Service,
R/o Plot No. 7/10, Saptashrungi,
Housing Society, N-7, Cidco,
Aurangabad, Tq. & Dist. Aurangabad.

.. **Respondents**

Mr. Vivek J. Dhage., Advocate for the petitioner.
Mrs. A.V. Gondhalekar, AGP for respondent-State.
Mr. Avinash Deshmukh, Advocate for respondent no. 3.

**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.
DATE : 20.09.2017**

ORAL JUDGMENT (Per S.V. Gangapurwala, J.): -

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The respondent no.3 had assailed the selection of petitioner herein before the Tribunal. The Tribunal allowed the original application thereby set aside the appointment of the present petitioner and directed the respondent nos. 1 and 2 to appoint the present respondent no.3 on the post of Deputy Director (Sericulture), aggrieved thereby the present petition.

3. Mr. Dhage, the learned counsel for the petitioner states that the Tribunal has gone beyond the prayer made by the present respondent no.3 in the original application. The respondent nos. 1 and 2 did not have any occasion to verify the documents of the present respondent no.3, in as much as the respondent no.3 was never selected and as such could not have directed appointment of respondent no.3 in place of present petitioner. According to the learned counsel, the petitioner possesses the necessary qualification and the experience as

per the advertisement for the post of Deputy Director (Sericulture). The necessary administrative experience is also possessed. The Tribunal solely on the ground that experience certificates are not issued by the competent authority has disbelieved them, the same is the position with regard to the certificates of respondent no.3, however, they are considered.

4. The learned counsel submits that M.P.S.C. after verifying all the documents produced before it had recommended the name of present petitioner and the present petitioner has been duly appointed and is holding the said post since the year 2013.

5. Mr. Deshmukh, the learned counsel for respondent no.3 submits that the documents produced by the present petitioner were not issued by the competent authority, moreover, the petitioner did not possess experience as required for the said post and as per the advertisement, more particularly the administrative experience. The Tribunal has rightly considered the said certificates. The experience possessed by the present petitioner was technical in nature, which cannot be said to be experience on the administrative side. The Tribunal has also considered the experience certificates produced by the present respondent no.3 and thereafter has passed the order.

6. Mrs. Gondhalekar, the learned A.G.P. submits that the present respondent nos. 1 and 2 had filed their affidavit before the Tribunal substantiating their stand.

7. We have considered the submissions. With regard to the experience possessed by the candidates, the expert body entrusted with the selection process is supposed to scan the documents, apply their mind and take decision thereupon. Objections are raised to the documents produced by the present petitioner to the effect that the experience certificates on record and filed by the present petitioner do not with-stand the test of administrative experience and that the same is technical in nature and / or that the same is not issued by the competent authority. It does not appear that the State had any objection with regard to the authority who has issued the experience certificate. Moreover, certain objections are raised with regard to the nature of the experience which certainly the M.P.S.C. or the competent authority will have to consider in the touchstone of the objections raised and discussed by the Tribunal.

8. The Tribunal or this Court is not an expert to consider the nature of the experience, the same naturally has to be considered by the committee of experts appointed for the said purpose during the

recruitment process.

9. It also appears that the documents pertaining to experience produced before by the respondent no.3 were also not verified by M.P.S.C. In view of the fact that the respondent no.3 was never selected and was kept in the wait list, the same also will have to be considered by the authority. Naturally, without considering the documents, the Tribunal could not have passed an order directing appointment of respondent no.3, the same would be beyond the purview of the jurisdiction of the Tribunal.

10. Considering the above, the impugned judgment and order is quashed and set aside.

11. The M.P.S.C. or any such authority competent to verify the documents on behalf of respondent nos. 1 and 2 shall verify the documents of the petitioner and the respondent no.3 herein and take decision afresh with regard to the selection for the post of Deputy Director (Sericulture) as per the advertisement in question. The said decision be taken expeditiously and preferably within two months.

12. In case the respondent nos. 1 and 2 choose to cancel the selection of the present petitioner, then, the said order shall not take

effect for a period of two weeks. Needles to state on lapse of two weeks the protection granted will come to an end. If the authority so desires they may hear the parties concerned. Writ petition is accordingly disposed of. Rule accordingly made partly absolute. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]