

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

WRIT PETITION NO.6337 OF 2016

HARIBHAU GANGADHARRAO CHATE

VS

THE STATE OF MAHARASHTRA AND ORS.

...

Mr. Subhash V.Mundhe, Adv. For petitioner;

Mr. AS Shinde, AGP for Resp.No. 1;

Mr.AM Gaikwad, Adv. For Resp.No.3;

Mr. SV Adwant, Adv. For Resp.No. 3 & 5.

**CORAM : T.V.NALAWADE &
SANGITRAO S.PATIL,JJ.**

DATE : 7th MARCH,2017.

PER COURT:

1) The petition is filed to challenge the qualification which is prescribed by Respondent No.3 in advertisement dated 1.4.2016. Both the sides are heard.

2) Respondent No.3 has advertised the post of Technician Grade-IV and requisite educational qualification for this post is that the candidate should have successfully completed Electrician course as is approved by NCTVT, New Delhi.

3) The petitioner is possessing a Certificate of Wireman, which is also approved course by NCTVT. It is the grievance of the petitioner that in the past, when such posts were advertised, the candidates possessing the certificate of both, Wireman and Electrician, were allowed to apply and appointments were given to them.

4) Learned Counsel for the petitioner submitted that even after division of MSEB into three separate companies, two of the companies are allowing the candidates holding Certificate of Wireman to apply for the said post. Respondent No.3 – company has now restricted the advertisement to the candidates who are holding certificate of Electrician. The learned Counsel submitted that this is nothing but a sheer discrimination and if the nature of work, which is to be discharged by technician, is considered, such discrimination cannot be allowed and the persons like the petitioner, who are holding the Certificate of Wireman, need to be allowed to apply for the aforesaid post.

5) In the aforesaid regard, at Para No.9,

Respondent No. 3 has contended as follows, -

"9. I further say that MSEB Holding Company Ltd. i.e. the Respondent No.2 has, with a view to have better promotional avenues and optimum utilization of manpower, passed Resolution No.19/60 dated 7.2.2011, approving the merger of Artisan Cadre and Line Staff Cadre into one cadre, to be called as 'Technician Cadre' and introduction of new posts as Technician Grade I to Technician Grade IV. I say that the said resolution has been notified vide Administrative Circular No.257 dated 8.3.2011.

. I further say that, in furtherance of the said decision of the Respondent No.2, new posts were created under the Technician Cadre and new pre-requisites were prescribed for the said posts. I say that the respondent No.2 has accorded approval to the respondent No.3 to prescribe the pre-requisites for the post of Technician Cadre, thus the claim of the petitioner that the qualification prescribed by the respondent no.3 should be as per two other companies under the respondent No.2 and as were before 2012, is unpalatable and deserves to be discarded.

. I say that the respondent No.3 has completed the formalities of creating the posts in Technician Cadre and prescribing the eligibility criteria for the said posts, which is within its right and authority and has been approved by the respondent No.2, thus the claim raised by the petitioner is thoroughly unsustainable at law and deserves to be rejected."

6) When the employer like Respondent No.3

considers necessity of the qualification, ordinarily courts are not expected to interfere or make further enquiry about the necessity of the qualification. In view of the aforesaid contentions made by Respondent No.3, this Court holds that it is not possible to interfere in the policy decision taken by Respondent No.3 – company. This court holds that no interference is warranted in the present matter. The writ petition stands dismissed.

(SANGITRAO S.PATIL)
JUDGE

(T.V.NALAWADE)
JUDGE

bdv/