

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

WRIT PETITION NO.7020 OF 2008

- 1) Khan Feroz s/o Gulab Khan
Age 31 years, Occupation Nil,
R/o Savda Road, Raver,
Tq. Raver, District Jalgaon ... PETITIONER

VERSUS

- 1) The State of Maharashtra,
through Commissioner,
Maharashtra State Priksha Parishad,
17, Dr. Ambedkar Road,
Pune – 411 001
(Copy to be served on Govt. Pleader,
High Court of Judicature of Bombay,
Bench at Aurangabad)
- 2) Collector, Jalgaon,
District Jalgaon.
- 3) Chief Officer,
Zilla Parishad, Jalgaon
- 4) Education Officer (Primary),
Zilla Parishad, Jalgaon ... RESPONDENTS

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Shri S.S. Kazi, Advocate for petitioner
Shri A.R. Nikam, Advocate for respondent No.1
Shri R.V. Dasalkar, A.G.P. for respondent No.2
Shri M.K. Goyanka, Advocate for respondents No.3 & 4
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WITH

WRIT PETITION NO.7069 OF 2008

Syed Shahed s/o Syed Naser,
Age 30 years, Occupation Nil,
R/o Malangshah Mohalla,
Near Markaz Masjid, Partur,
Tq. Partur, District Jalna

... PETITIONER

VERSUS

1) The State of Maharashtra,
through Commissioner,
Maharashtra State Priksha Parishad,
17, Dr. Ambedkar Road,
Pune – 411 001
(Copy to be served on Govt. Pleader,
High Court of Judicature of Bombay,
Bench at Aurangabad)

2) Collector, Jalna,
District Jalna.

3) Chief Officer,
Zilla Parishad, Jalna

4) Education Officer (Primary),
Zilla Parishad, Jalna

... RESPONDENTS

.....
Shri S.S. Kazi, Advocate for petitioner
Shri R.V. Dasalkar, A.G.P. for respondent No.1 & 2
Shri A.R. Nikam, Advocate for respondent No.3 & 4
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WITH

WRIT PETITION NO.415 OF 2009

Khan Farhan s/o Zaheer Khan
Age 20 years, Occupation Nil,
R/o Station Road, Akshay Nagar,
Partur, District Jalna

... PETITIONER

VERSUS

- 1) The State of Maharashtra,
through Commissioner,
Maharashtra State Priksha Parishad,
17, Dr. Ambedkar Road,
Pune – 411 001
(Copy to be served on Govt. Pleader,
High Court of Judicature of Bombay,
Bench at Aurangabad)
 - 2) Collector, Jalna,
District Jalna.
 - 3) Chief Officer,
Zilla Parishad, Jalna
 - 4) Education Officer (Primary),
Zilla Parishad, Jalna
- ... RESPONDENTS

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Shri S.S. Kazi, Advocate for petitioner
Shri R.V. Dasalkar, A.G.P. for respondent No.1 & 2
Shri A.R. Nikam, Advocate for respondent No.3 & 4

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CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

DATED : 28th July, 2017

JUDGMENT (PER SUNIL K. KOTWAL, J.) :

1. These three Writ Petitions are filed for a writ of mandamus to direct the respondents to appoint the petitioners as Shikshan Sevaks for Urdu Medium as well as for the relief of declaration that the petitioners are successful in CET Examination, dated 31/8/2008 held for the recruitment of Shikshan Sevak. Respondent No.1 is the State of Maharashtra,

respondent No.2 are the respective Collectors of the districts and respondent No.3 are the Chief Officers of respective Zilla Parishads.

2. The contentions of the petitioners in brief is that, after completing Diploma in Education (D.Ed.), they were qualified for the post of Shikshan Sevak. In pursuance to advertisement published by respondents in newspaper, the petitioners appeared for CET Examination held for the recruitment of Shikshan Sevak on 31/8/2008, in Urdu Medium as the petitioners have completed their D.Ed. in Urdu Medium. The respondents ought to have provided question papers for CET Examination in Urdu Medium. However, on 31/8/2008, to the surprise of the petitioners, question paper was provided to them in Marathi Medium and, therefore, they were compelled to write the answers in Marathi Medium, which resulted into loss of their opportunity to secure good marks in the CET Examination. In the result, all the petitioners failed in CET Examination. Therefore, these petitions arise for above referred appropriate relief.

3. By filing reply affidavits, respondents raised objection that, it was not their willful default or negligence to provide question papers to the petitioners in Marathi language. If any

mistake is committed while feeding the data in newly provided software, the said data cannot be changed by the respondents. Next objection of the respondents is that, after receipt of Hall tickets to the candidates appearing for the CET Examination, nobody submitted complaint regarding issue of incorrect information. Otherwise also, every petitioner is well conversant with Marathi language as they had Marathi as compulsory subject from primary stage up to D.Ed. examination. The Shikshan Sevaks have to teach these subjects in their future life also. There was no difficulty for the petitioners to tick mark the answers against the options provided in answer paper of this objective examination. Marathi language was not hurdle to submit the answer papers. However, petitioners could not secure minimum qualifying marks in the said CET Examination to become eligible for interview. Therefore, the relief claimed by the petitioners, cannot be granted.

4. Learned Advocate for petitioners submitted that, the petitioners being students of Urdu Medium, they were not well conversant with Marathi language and, therefore, they could not secure good marks in CET Examination only because question paper was provided to the petitioners in Marathi language. He submitted that, on account of negligence on the part of

respondents, petitioners, lost good opportunity to get the post of Shikshan Sevak.

5. On the other hand, learned Advocate for respondents argued in the line of their reply-cum-affidavit.

6. During the course of arguments, it becomes clear that, petitioners are conversant with Marathi language as it was one of the subject during their education. So also, it cannot be ignored that petitioners appeared in the CET Examination and secured reasonable marks. Only because the petitioners could not get marks more than the benchmark, they could not be qualified for interview. It cannot be ignored that, as per the advertisement of CET Examination for the post of Shikshan Sevak, it was objective examination and the candidates had to only tick mark the options provided to them. Therefore, Marathi language was not hurdle to the petitioners to submit the answer papers despite they have appeared in the said examination as Urdu Medium candidates. There is no breach of constitutional rights of petitioners. In the circumstances, at this stage, the petitioners cannot be declared as successful candidates and they cannot be appointed as Shikshan Sevaks. In other words, these petitions being devoid of merit, deserve to be rejected. Accordingly, we pass following order :

ORDER

Writ Petitions No.7020/2008, 7069/2008 and
415/32009 are rejected. Rule discharged.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/