

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11805 OF 2015

(Santosh s/o Badrinath Davhare Vs. The State of
Maharashtra and others)

Mr. S.S.Thombre, Advocate for the petitioner
Mr. S.B.Yawalkar, A.G.P. for the respondent/State

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

DATE : 18th APRIL, 2017

ORAL ORDER:

Heard.

2. The petitioner had filed Original Application No.151 of 2015 against rejection of his candidature. Mr.Thombre, the learned counsel for the petitioner submits that pursuant to the advertisement dated 11th October, 2013, the petitioner had applied for the post of Assistant Motor Vehicle Inspector. He was selected from Open Sportsman Category. He submits that subsequently, the petitioner is not being considered only on the ground that he did not possess permanent licence in respect of heavy motor vehicle and motorcycle.

3. The learned counsel for the petitioner submits that the advertisement in question is not in consonance with the Motor Vehicle Rules, more particularly Form No.II thereof. There is no licence as heavy motor vehicle or motorcycle. He submits that the licence is in respect of transport vehicle and other licences. In the advertisement in the column of requirement, the requirement of transport vehicle licence was never mentioned. According to him, it was not in consonance with the Rules. When there is conflict between the advertisement and the Rules, Rules shall prevail. According to him, even otherwise the petitioner was possessing the learner's licence on the date on which the advertisement was published and subsequently, prior to the practical test, he had got the permanent licence. Even in subsequent advertisement, the respondents have rectified their mistake and included the licence of transport vehicle. He submits that now, as per the advertisement, after selection, within a period of six months, the required licence can be obtained. However, since he had permanent licence before the selection process was concluded, the case of the petitioner ought to be considered.

4. Mr. Yawalkar, the learned A.G.P. submits that the petitioner would be bound by the conditions in the advertisement. The condition in the advertisement was clear. The petitioner did not possess permanent licence of heavy motor vehicle and motorcycle. At the relevant time, he was possessing only learner's licence.

5. We have considered the submissions canvassed by the learned counsel for the petitioner and the learned A.G.P.

6. The petitioner, pursuant to the advertisement in question, had applied to the post of Assistant Motor Vehicle Inspector and participated in the selection process. The stipulations in the advertisement would be binding on both the parties. None of them is entitled to deviate from any of the conditions in the advertisement. Once having participated in the selection process undertaken pursuant to the advertisement, the petitioner is not entitled to assail the terms of the advertisement. Clause 5.6 of the advertisement specifically lays down that candidate should possess permanent licence of heavy motor vehicle and motorcycle

as on 1st November, 2013. Admittedly, on the said date the petitioner did not possess the permanent licence. He, however, was possessing only learner's licence.

7. The contentions of the petitioner could have been considered, had he challenged the advertisement before participating in the selection process.

8. In view of above, no relief can be granted in favour of the petitioner. The Writ Petition is disposed of. No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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