

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4968 OF 2016

Shri. Mahavir Bhupal Patil ...Petitioner.

Versus

State of Maharashtra
and others

...Respondents

Mr. Manoj A. Patil for the Petitioner.
Mr. O.M. Kulkarni, AAGP for Respondent-State

**CORAM : NARESH H. PATIL AND
Z.A. HAQ, JJ.**

24th AUGUST, 2017.

P.C.: (Per : Z.A. Haq, J.)

1. Heard.

The petitioner has challenged the appointments of respondent Nos. 5 to 7 on the posts of Section Officer and has prayed that the respondent No.4-University be directed to appoint him as Section Officer with retrospective effect giving deemed date of 24th July, 2012 with consequential benefits.

2. The respondent No.4-University had undertaken process for appointment on the posts of Section Officer and by order dated 12th November, 2010 had appointed the petitioner and respondent No.5 Anandrao Bhairu Pawar. The appointments of the petitioner and Anandrao Bhairu Pawar were challenged by Tejaswini Raghunath Galande by filing Writ Petition No.924 of 2011, which came to be allowed by Division Bench of this Court by the judgment

dated 15th November, 2011. It was held that one post of Section Officer out of the two posts in which the petitioner and Anandrao Bhairu Pawar were appointed, should have been reserved for female candidate. This Court found that Anandrao Bhairu Pawar had secured more meritorious position than the present petitioner in the process of selection and therefore as the petitioner was found to be less meritorious than Anandrao Bhairu Pawar, the appointment of the present petitioner was quashed and the respondent No.4-University was directed to fill that post of Section officer by inviting applications from female candidates only. This Court recorded that the respondent No.4-University was justified in appointing Anandrao Bhairu Pawar.

3. After the judgment was given by this Court, the respondent No.4-University has again undertaken the exercise of filling the posts of Section Officer by issuing advertisement on 23rd July, 2012. In this selection process, the respondent Nos. 6 and 7 are selected and appointed on the posts of Section Officer. According to the petitioner, his name was included in the list of eligible candidates published by the respondent No.4-University. The contention of the petitioner is that he was illegally deprived of participating in the selection process and therefore the selection and appointment of respondent Nos.6 and 7 is vitiated. It is further alleged that, the appointment of respondent No.5-Anandrao Bhairu Pawar on the post of Section officer is also illegal as he is not having the requisite qualifications / eligibility for the post. It is urged that the submissions made on behalf of the petitioner that the respondent No.4-University has committed illegality and irregularity in the selection and appointment of the respondent Nos. 5 , 6 and 7 is supported by the report of the

committee which was appointed by the Government to enquire into the matter.

4. After hearing the learned Advocates for the respective parties and examining the documents placed on record of the petition, we need not consider the challenges raised by the petitioner to the appointment of the respondent No.5-Anandrao Bhairu Pawar. As recorded earlier, the respondent No.5-Anandrao Bhairu Pawar was appointed after following due procedure on 12th November, 2010, this appointment was challenged before this Court in Writ Petition No.924 of 2011 and this Court after examining the matter recorded that the respondent No.4-University was justified in appointing Anandrao Bhairu Pawar on the post of Section Officer and rejected the prayer made by Tejaswini Raghunath Galande (Petitioner in Writ Petition No.924 of 2011) praying that the appointment of Anandrao Bhairu Pawar be quashed. The present petitioner was party (Respondent No.4) in that petition. If at all the present petitioner felt that Anandrao Bhairu Pawar was not qualified/eligible for appointment on the post of Section Officer, he should have raised appropriate grounds at the hearing of that petition. The petitioner has not been able to point out why the petitioner had not pointed out to this Court when the legality of the appointment of the present petitioner and Anandrao Bhairu Pawar was considered by this Court, that Anandrao Bhairu Pawar was not having the qualifications / eligibility to be appointed as Section Officer. In these facts, in our view, it would not be open to the petitioner to re-agitate the issue again in the present petition.

5. The petitioner has challenged the appointments of respondent Nos. 5, 6 and 7 on the ground that the committee constituted by the State Government to enquire into the matter has submitted its report pointing out that several illegalities and irregularities have been committed in the selection process. According to the petitioner, the report is submitted to the State Government on 26th June, 2013. The petitioner relies on the fortuitous circumstance i.e. alleged observations in the inquiry report, and has filed this petition some time in November / December, 2015. However, the foundation of the challenge is that the name of the petitioner was illegally deleted from the list of eligible candidates because of which his right of being considered for appointment on the post of Section Officer is violated. The list of eligible candidates was prepared and published by the respondent No.4-University in June / July, 2012. Though the petitioner claims that he had made a representation dated 20th July, 2012 to the Joint Director (Higher Education, Solapur Division, Solapur) pointing out that he is illegally deprived of his right of consideration for the appointment on the post of Section Officer, it is unexplained as to why the petitioner has not approached this Court immediately before the process of selection progressed.

6. In the above facts, in our view, it would not be appropriate for us to examine the challenges raised by the petitioner in extraordinary jurisdiction after the period of more than five years.

The Writ Petition is dismissed. In the circumstances, the parties to bear their own costs.

(Z.A. HAQ, J)

(NARESH H. PATIL, J)