

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

WRIT PETITION NO.480 OF 2016

Shivraj s/o.Kankayya Nagalu
Age: 35 years, Occ. Nil,
R/o. Parimal Nivas,
Ganga Putar Colony,
Darga Road, Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
2. The Joint Director,
Health Service [Maleriya],
Arogya Bhavan, in front of
Vishrantwadi Police Station,
Yerwada, Pune.
3. The Chief Executive Officer,
Zilha Parishad, Parbhani
Tq. & Dist. Parbhani
4. The District Health Officer,
Zilha Parishad, Parbhani,
Tq. & Dist. Parbhani.

RESPONDENTS

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Mr.V.R.Jain, Advocate for the petitioner
Mr.P.K.Lakhotiya, AGP for respondent nos.1
and 2—State
Mr.A.N.Nagargoje, Advocate for respondent
nos.3 and 4.

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**CORAM: S.S.SHINDE &
S.M.GAVHANE, JJ.**

Reserved on : 15.01.2018
Pronounced on : 24.01.2018

ORDER: (Per S.S.Shinde, J.):

1] This Petition is filed praying therein to direct respondent no.3 to consider the petitioner for selection to the post of Health Worker [Male] from the category of candidate, who has successfully completed the course of Sanitary Inspector from the Institute recognized by the Government.

2] It is the case of the petitioner that, the petitioner passed SSC & HSC Examination. The petitioner has completed degree in Bachelor of Arts. The petitioner has requisite qualification as per the advertisement. The petitioner belongs to Bhoi community, which comes under NT-B category.

The Sub-Divisional Officer, Parbhani, has issued a caste certificate in favour of the petitioner. The petitioner has completed Computer Course, therefore, the M.S.B.T.E. has been issued certificate in favour of the petitioner. On 09.08.2003, the petitioner took admission to the Diploma Course of Sanitary Inspectors in All India Institute of Local Self Government, which is situated at Andheri [West], Mumbai. The petitioner has been completed his course within 12 months.

3] It is further the case of the petitioner that, on 25th April, 2007, respondent no.3 issued an advertisement in daily newspaper, inviting application for the post of Health Worker [Male]. It is mentioned in the said advertisement that, respondent no.3 would conduct written examination for the post of Health Worker [Male] on 17.06.2007. On 19.05.2007, the petitioner

applied for the post of Health Worker [Male] from the category NT-B. Thereafter, hall-ticket came to be issued to the petitioner, and the examination seat number of the petitioner is 21700059. The petitioner has appeared for the said written examination, and he has passed the said examination. On 18.06.2007, respondent called petitioner for interview. The petitioner appeared before the respondent for interview along with original documents.

4] Learned counsel appearing for the petitioner submits that, respondent has not selected to the petitioner for the post of Health Worker [Male], therefore, the petitioner approached the respondent by way of filing application stating therein that the State Government has made amendment in the Health Worker [Male] Group C, in the Directorate of Health Services [Recruitment]

Rules, 1997. As per the amendment, proviso is inserted that, preference may be given to those candidates who gained minimum 90 days experience as a seasonal spraying worker or successfully completed the course of Sanitary Inspector from an Institution recognized by the Government. It is submitted that the respondent has not considered the application filed by the petitioner stating therein that the petitioner successfully completed Diploma of Sanitary Inspector. Respondent informed the petitioner by a letter that, he has no experience certificate as a season spraying worker, therefore, the petitioner is not qualified for the post of Health Worker [Male]. Therefore, he submits that, the Petition may be allowed.

5] Learned AGP appearing for respondent nos.1 and 2 and learned counsel appearing for respondent nos.3 and 4 jointly

submit that, the Writ Petition is filed belatedly after the impugned communication, by respondent no.4 to the petitioner, communicating to him that the petitioner at the relevant time, had no experience certificate of 90 days in participating in a programme to eradicate malaria. A candidates, who are having certificate of 90 days experience in participating the said programme at the relevant time, their claims have been favourably considered, and they are selected.

6] We have given careful consideration to the rival submissions of the learned counsel appearing for the respective parties. With their able assistance, we have perused the pleadings and grounds taken in the Petition, annexures thereto and also the contents of letter dated 18th June, 2008 written by the District Health Officer, Parbhani, District Parbhani, addressed to the

petitioner. We find considerable force in the submission of the learned counsel appearing for the respondents that, there is inordinate delay in filing this Petition, inasmuch as, the petitioner's request to select him for the post of Health Worker [Male] has been turned down in the year 2008, and belatedly the Petition has been filed in the year 2016. On this ground alone, the Petition deserves to be dismissed.

7] Apart from delay in filing the Petition, the Petition raises disputed questions of facts, and therefore, it is not desirable to entertain the Petition. Hence the Writ Petition stands rejected.

8] However, we make it clear that, the rejection of this Petition shall not be construed as an impediment to the petitioner to apply for the said post in future, if the respondents advertise such posts and the

petitioner fulfills the educational qualification and other eligible criteria including age limit.

[S . M . GAVHANE]
JUDGE

[S . S . SHINDE]
JUDGE

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