

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1499 OF 2018

Dhananjay S/o Bajrang Kukar
Age 27 years, Occ. Nil,
R/o. At Post Vadgaon Dadahari,
Tq. Parali Vaijanath, District Beed.

..PETITIONER

-VERSUS-

1. Maharashtra State Power
Generation Co. Ltd.,
Anant Kanekar Marg, Prakashgad,
Bandra East, Mumbai – 400 051.
2. Chief Engineer,
Parali Vaijanath Thermal Power Station,
Tq. Parali Vaijinath,
District Beed
3. The State of Maharashtra,
Through its Secretary,
Energy Department,
Mantralaya, Mumbai

..RESPONDENTS

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Mr. A.N. Nagargoje holding for Mr. V.V. Deshmukh,
advocate for the petitioner
Mr. P.S. Patil, AGP for respondent No.3-State.

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**CORAM : S. S. SHINDE AND
K.K. SONAWANE, JJ.**

**RESERVED ON : 30th November, 2018
PRONOUNCED ON : 10th December, 2018**

JUDGMENT (PER S.S. SHINDE, J.) :-

1. Heard.

2. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

3. It is the case of the petitioner that the agriculture land, owned by the petitioner was acquired for the purpose of Thermal Power Station at Parali Vaijinath, Tq. Parali Vaijinath, District Beed. He has been given certificate to that effect by the District Rehabilitation Officer, Beed on 28th April, 2010. The petitioner has completed his Engineering in Mechanical Course in May, 2013 in first class, and thus he is qualified for the Advanced Skill Training. After obtaining the certificate of project affected and after completion of his Engineering, the petitioner has made applications to Respondent No.2 on 23rd May, 2017 and 28th October, 2017, for his absorption in Parali Vaijanath Thermal Power Station for Advanced Skill Training from project affected category.

4. After receipt of the applications from the petitioner, the respondents have called for the character certificate of the petitioner from the Superintendent of Police, Beed. The Superintendent of Police, Beed vide its letter dated 14th October, 2017 informed the Respondents that they have forwarded the charge-sheet bearing No.114/2016, based on that one criminal case bearing R.C.C. No.375/2016 is pending against the petitioner before the competent court at Parali. After receipt of the character certificate of the petitioner from the Superintendent of Police, Beed, Respondent No.2 by its communication/letter dated 28th November, 2017 informed the petitioner that due to pendency of criminal case against him, he is not selected for advanced skill training.

5. Being aggrieved by the said letter/communication dated 28th November, 2017, issued by respondent No.2, the petitioner has preferred instant writ petition.

6. Learned counsel appearing for the petitioner submits that mere registration of crime against the petitioner will not disqualify him for being selected for Advanced Skill Training, and also he will not be disqualified from getting selected for the post of worker after completion of period of Advanced Skill Training. The petitioner has also placed reliance on the Rules framed by the Government with respect to Classification and Recruitment in Electricity Board. The said Rules known as "MSEB Classification and Recruitment Regulations, 1961". As per the said Regulations, only a person convicted in criminal offence will not be eligible for appointment with respondent Nos. 1 and 2.

7. The respondent Nos. 1 and 2, by filing their affidavit in reply, have not disputed that the petitioner is project affected person. It has been contended that the project affected person will have to undergo regular selection process and after being successful in the said process, such

person can be given appointment. It has been further contended that the respondent company has taken policy decision that in order to offer 'Pragat Kushal Training" to the project affected person of MAHAGENCO, the ITI certificate, project affected person's certificate and character certificate are to be produced for verification and even if one of the document is declared questionable or invalid, such person is not to be admitted to the aforesaid training.

Respondent Nos. 1 and 2 further contended that as regards the petitioner is concerned, the educational qualification and his status as project affected person is found in order, however, as per the report of the Police, the petitioner is found involved in a criminal case being R.C.C. No.371/2016 for the offence punishable under Sections 323, 325, 504 read with Section 34 of the Indian Penal Code, wherein the charge-sheet is filed and the case is pending. It is as such, that unless and until the petitioner is exonerated or

acquitted by the Competent Court, his claim cannot be considered.

8. We have heard learned counsel appearing for the petitioner and learned AGP appearing for respondent No.3. We have carefully perused the affidavit in reply filed on behalf of Respondent nos.1 and 2. We have also perused the Maharashtra State Electricity Board Employee's Service Regulations.

9. The clause 10(a) of the General Conditions of Service of the said Regulations reads as under:-

"No person shall be eligible for appointment or shall be continued in service of the Board, if he/she is declared insolvent by the Competent Court or convicted in a Criminal Court or any other Court of Law for any criminal offence inclusive of offence under the Untouchability Act, which in the opinion of the Competent Authority, is considered unsuitable for employment, in view of surrounding circumstances and gravity of the offence."

In the aforesaid general conditions of service, it is mentioned that the appointment shall not be given to any person who is convicted by criminal Court. On perusal of notification and also communication in this regard placed on record, we do not find any of such conditions disqualifying the person only on the basis of registration of crime against him. Needless to say that the accused is presumed to be innocent till proved guilty.

Further more, if the petitioner is convicted in the aforesaid criminal case, respondents will be at liberty to take appropriate action against the petitioner such as termination etc. However, in absence of any such Rules/Regulations, the petitioner who is otherwise eligible cannot be refused for Advanced Skill Training under the category of project affected person.

10. In the above circumstances, we quash and

set aside the letter/communication dated 28th November, 2017 issued by respondent No.2 and direct respondent No.2 to select the petitioner for Advanced Skill Training, if he is otherwise fulfills criteria/eligibility for such training.

11. The Writ petition stands disposed of accordingly. Rule is made absolute on the above terms.

(K.K. SONAWANE, J.)

(S. S. SHINDE, J.)

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