

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

WRIT PETITION NO.1865 OF 2017

Kalpesh Laxman Patil

..Petitioner

Versus

Union of India and
others.

..Respondents

...

Mr.P.B.Patil, Advocate for the Petitioner.

Mr.S.B.Deshpande, ASG for Respondents.

...

**CORAM : S.V.GANGAPURWALA AND
SUNIL K.KOTWAL, JJ.**

DATE: 11th June, 2018

PER COURT:-

1. Mr.P.B.Patil learned counsel for the petitioner submits that pursuant to the advertisement, petitioner has applied for the post of Constable (GD) from OBC category. The candidature of the petitioner is rejected only on the ground that the petitioner has not produced OBC certificate in proper format.

2. The learned counsel submits that the medical test of the candidate will be conducted only after proper certificate is produced. The learned counsel submits that in the affidavit, a separate ground is raised by them to the effect that the

age of the petitioner on the date of application was beyond the upper age limit. According to the learned counsel while submitting online application for the post of Constable (GD) from OBC category, the date of birth of the petitioner is mentioned as 12.10.1989, whereas in the school record it is shown as 30.06.1989.

3. According to the learned counsel for the petitioner, even prior to filing of the online application for the post of Constable (GD), the date of birth was corrected as 12.10.1989 by way of publication in the Government Gazette. Even certificate is issued by the Block Development Officer, Panchayat Samiti, Bhadgaon under the Registration of Births and Deaths Act 1969, showing the date of birth of the petitioner as 12.10.1989. The learned counsel submits that only on the ground that the OBC certificate produced by the petitioner is not in proper format, the claim of the petitioner is negated.

4. Mr.S.B.Deshpande learned ASG for the respondents submits that the petitioner has altered his date of birth to claim benefit of OBC reservation. This Court should not exercise discretion in favour of a person, who is not coming before the Court with clean hands.

Even the certificate in proper format, as required, is not produced by the petitioner. It is stated that in view of the fact that the large number of applications are received, the applications were not processed prior to the medical test. The candidature of the petitioner is rightly rejected.

5. We have considered submissions canvassed by the respective parties. As far as rejection of candidature of the petitioner on the ground that OBC certificate was not produced in proper format is concerned, it would be too technical. The petitioner has produced certificate that he belongs to 'Kunbi' caste, though it is not submitted in the proper format. We may not uphold the said ground for rejection of the petitioner's candidature. However, it has been pointed out that the school record indicates the date of birth of petitioner as 30.06.1989 and the same is continued till the date of advertisement. After the advertisement is issued, the petitioner took steps to change the date of birth so as to take benefit of age relaxation given to OBC candidates.

6. Going through the documents on record, it is abundantly clear that the petitioner has obtained

the certificate from the Block Development Officer only on 04.02.2015, showing the date of birth as 10.12.1989, whereas the date of birth of the petitioner is 30.06.1989 as per school records. Even subsequent change in date of birth is indicated in the Government Gazette, which is published for the period from 12.02.2015 to 18.02.2015. All these aspects would show that the petitioner has tried to alter his date of birth subsequently after issuance of advertisement so as to claim benefit of OBC category.

7. No purpose would be served by remitting back the matter or even setting aside the ground that OBC certificate is not submitted in proper format as the other lacunae would still remain. Even the publication of the date of birth in the Government Gazette does not have evidential value as it is on the basis of affidavit of the petitioner. Even the presumption attached to certificate issued under the Registration of Births and Deaths Act, 1969 is available only if it is shown that entry has been recorded as per the procedure laid down under the said Statute. Reliance can be placed on the Judgment of the Division Bench of this Court in the case of **Gangadhar s/o Gonduram Tadme Vs. Trimbak s/o Govindrao Akingire and others**, reported in 2005 (1) Mh.L.J., 94.

8. In the light of above, no relief can be granted to the petitioner. Writ Petition stands disposed of. No costs.

(SUNIL K.KOTWAL, J.)

(S.V.GANGAPURWALA, J.)

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