

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15217 OF 2017

Rohit Shridahr Patil

.. **Petitioner**

Versus

Union of India and others

.. **Respondents**

Shri Paresh B. Patil, Advocate for the Petitioner.

Shri Bhushan B. Kulkarni, Standing Counsel for Respondent
Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 25th April, 2018

PER COURT :

1. Mr. Patil, learned counsel for the petitioner submits that the petitioner had applied for the post of Constable (GD). The petitioner had passed the physical PST / PET, and thereafter qualified for the written examination. The petitioner has given the written examination. The impugned communications are issued by the respondents cancelling the candidature of the petitioner on the ground that the petitioner did not submit the certificate of the petitioner being 'Maratha'. According to the learned counsel, unless and until the petitioner submits that

certificate, the petitioner is not allowed to undergo PST / PET nor could have been called for the written examination. The certificate is issued to the petitioner on 3rd August, 2012. The petitioner had produced the said certificate and it is only after production of the said certificate the petitioner was allowed to undergo physical test. The relevant clause states that, it is only if the petitioner produces the certificate, then only the petitioner's physical test would be conducted. According to the learned counsel, the certificate was in proper form, wherein it specifically states that the petitioner belongs to 'Maratha' caste and he is entitled for relaxation.

2. The petitioner is held to be qualified. The chest measurement of the petitioner was 78 - 83. The learned counsel submits that, it was an error on the part of the respondent in holding the petitioner ineligible only on the technical ground. The respondents have taken erroneous stand. When the certificate was produced they could not have rejected the candidature of the petitioner.

3. The learned counsel for the respondents submits that there

was no reason for the respondents to reject the candidature, if the petitioner would have produced the certificate of being 'Maratha'. The petitioner was given ample opportunity to produce 'Maratha' caste certificate but he failed. The recruitment process has been completed and final merit list is published on 2nd February, 2017. The vacancies of unreserved 'Maratha' category in Maharashtra State have already been filled up and there is no vacancy.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. There are rival contentions of the petitioner's having produced the certificate of 'Maratha' caste. The petitioner certainly was not fulfilling the qualification for a General candidate as the measurement of chest for the General candidate has to be 80 - 85. Whereas the petitioner's chest measurement was 78 - 83. It is only if the petitioner produces the 'Maratha' caste certificate, the relaxation would have been given to the petitioner. On affidavit it has been stated by the respondents that 'Maratha' caste certificate was not produced by the

petitioner along with the application, and even subsequently opportunity was given to the petitioner to produce the same. However, the petitioner failed to produce at the relevant time.

6. There is nothing on record before us to conclude on behalf of the petitioner that he had produced the 'Maratha' caste certificate. The document *Exhibit - E* annexed with the petition i.e. the result of the physical test bears an endorsement - "*to bring the required certificate in prescribed form*". This would show that, on the date when the result of the physical test is declared, the petitioner was not possessing the required certificate in the prescribed form. The document is filed by the petitioner himself along with the writ petition. This would conclude that the petitioner had not produced the required certificate in the prescribed form at the time when the physical test was conducted. It appears that the petitioner was given an extended time to produce the said certificate. The petitioner failed to produce the said certificate.

7. Even otherwise, the petitioner could not have been eligible as he failed to qualify the chest measurement applicable for

General candidate. The order dated 20th February, 2017, also bears the same ground for rejection of the petitioner's claim.

8. Even otherwise, we had asked the learned counsel for the respondents as to whether any vacancy exist. The learned counsel submits that, no vacancy exist for the post of unreserved 'Maratha' category.

9. Considering the above conspectus of the matter, no case for interference is made out. The writ petition is dismissed. No costs.

10. It is made clear that, if any fresh recruitment takes place, the petitioner if he complies with all the requirements such as age, qualification etc. can apply and can claim benefit on the basis of 'Maratha' caste certificate if produced and as may be available at the relevant time.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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