

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.636 OF 2010***

1. Mr. Sarvesh Sudan Desai,
son of Sudan Rajaram Desai,
aged 23 years, Indian National,
Resident of H.No.692/F,
Sonarbhat, Saligao,
Bardez Goa.
Through his father and power of
attorney holder Sudan Rajaram Sawal Desai,
son of late Rajaram Sawal Desai,
major, married, Indian National,
Resident of H.No.692/F,
Sonarbhat, Saligao,
Bardez Goa. ... Petitioner

Versus

1. State of Goa,
Through the Secretary,
Agriculture,
Government of Goa,
Alto, Porvorim Goa.
2. Director of Agriculture,
Office of the Directorate of Agriculture,
Krishi Bhawan,
Tonca, Caranzalem, Goa.
3. Goa Public Service Commission,
Through the Secretary,

EDC House, Block 'C',
1st Floor, Dada Vaidya Road,
Panaji Goa.

4. Miss. Gauri Subhash Prabhudesai,

5. Sandesh Jiva Raut Desai,

6. Vishwanath Raut Gawas,

7. Kirtiraj Kamlakar Gaonkar,

8. Ranjit Babi Mapsekar,

9. Omkar Mohandas Desai,
Respondent Nos.4 to 9,
c/o Directorate of Agriculture,
Krishi Bhawan,
Tonca, Caranzalem Goa.

... Respondents

Mr. V. Parsekar, Advocate for the Petitioner.

Mr. Sagar Gurudas Dhargalkar, Additional Government Advocate for
the Respondent Nos.1 & 2.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 12 October 2018.

Oral Judgment (Per N. M. Jamdar, J)

The Petitioner has challenged the appointments of the
Respondent Nos.4 to 9 to the posts of Assistant Agricultural Officers.

An advertisement was issued by the Goa Public Service Commission on 11 December 2009 inviting the applications for direct recruitment to the 12 posts of Assistant Agricultural Officers. The eligible qualifications criteria was specified as Bachelor's Degree in Agriculture /Horticulture from a recognized University and three years experience in Agriculture/Horticulture with knowledge of Konkani and knowledge of Marathi as desirable qualifications.

2. On 31 December 2009, the Petitioner applied pursuant to the advertisement. The Petitioner was called for written test. The Petitioner appeared in the written test and secured 63 marks. The highest marks secured were 84 in the written test. Thereafter, the Petitioner appeared for oral interview and in the oral interview the Petitioner secured 63 marks. The highest marks is being 78. Considering the marks obtained by the Petitioner, the Petitioner was not selected. The Petitioner thereafter sought information under the Right to Information Act and it was provided information regarding the marks obtained. The Petitioner has thereafter filed the present petition challenging the appointments.

3. Heard Mr. V. Parsekar, the learned counsel for the Petitioner and Mr. S. Dhargalkar, the learned Addl. Government

Advocate for the Respondent Nos.1 and 2.

4. The learned counsel for the Petitioner relying on the Office Memorandum issued by the Government of Goa submitted that the excessive marks have been given to the Respondent Nos.4 to 9 in the interview and marks of the interview have been manipulated so that the Petitioner is not selected. He submitted that the grant of such indiscriminate marks in the interview defeat the selection process and to curb such tendency the State has issued the Office Memorandum. The learned Additional Government Advocate has relied upon a decision of the Apex Court in the case of *Madras Institute of Development Studies and Another Vs K. Sivasubramaniyan and others*¹.

5. As regards the contention of the Petitioner regarding the less marks in the interview is concerned, the Petitioner participated in the entire selection process. He appeared in the written examination and in the interview also. The marks given to the Petitioner were not sufficient to select the Petitioner. Merely on the ground that the Petitioner was given less marks, the selection process cannot be held to be tainted or vitiated. In the decision of *Madras Institute of*

¹ (2016) 1 SCC 454

Development Studies relied upon by the learned Additional Government Advocate, the Apex Court has held that having participated in the selection process based on the conditions stipulated therein, there cannot be challenge to the conditions. That there will be written test and interview was specified, which the Petitioner accepted and participated. It is not possible for us to sit in an appeal over the decision of assessment of merit of the rival candidates. No other infirmity in the selection process is pointed out.

6. We note that the Petitioner has prayed only for setting aside the appointments of the Respondent Nos.4 to 9 and has not sought any direction as regards the relief to be given to the Petitioner. The selection process was initiated in the year 2009. Interim relief was refused in the petition. The Respondent Nos.4 to 9 have continued in service since the year 2010. No relief can be granted to the Petitioner.

7. The writ petition is accordingly dismissed. Rule is discharged. No costs.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.