

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6085 OF 2016

Mr.John Shabaji Kharat ... Petitioner
V/s.
The State of Maharashtra and ors. ... Respondents

Mr.Uday P. Warunjikar for the Petitioner.
Mr.P.G.Sawant, AGP for the State/Respondent No.1.

CORAM : A.S.OKA AND M.S.SONAK, JJ.

Reserved for judgment on: August 20, 2018.
Judgment pronounced on : August 28, 2018.

JUDGMENT

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to the judgment and order dated 16th April 2015, made by the Maharashtra Administrative Tribunal (MAT) disposing of Original Application No.823 of 2011 instituted by the Petitioner. The Petitioner by instituting OA No.823 of 2011 had questioned the selection of Respondent Nos. 2 to 4 to the posts of State Information Commissioner. The

Petitioner by amending the OA also sought for a declaration of his own entitlement to the post of State Information Commissioner.

3. The State of Maharashtra had also instituted Writ Petition No.11623 of 2015 challenging the impugned judgment and order dated 16th April 2015, made by the MAT. The same was disposed of by this Court vide judgment and order dated 16th April 2016. The Petitioner, it appears, had instituted a Review Petition in Writ Petition No.11623 of 2015, which had since being disposed of by order dated 13th November 2017.

4. Mr.Warunjikar, the learned counsel for the Petitioner submits that the MAT in the impugned judgment and order has in fact recorded a finding that the procedure adopted to select Respondent Nos.2 to 4 to the posts of State Information Commissioner, was not legal and proper. Mr.Warunjikar submits that after record of such a categorical finding, the MAT was not at all justified in refusing to annul the appointments of Respondent Nos. 2 to 4 on the spacious plea that their tenure was

to shortly conclude. Mr. Warunjikar submits that since there were gross illegalities in the selection procedure, the MAT, was required to not only set aside the appointments of Respondent Nos. 2 to 4 but further, to grant the Petitioner the relief claimed in the original application. Mr. Warunjikar submits that the MAT has also erred seriously in not granting any relief to the Petitioner, in so far as the Petitioner's claim for appointment to the post of State Information Commissioner was concerned.

5. The Petitioner as well as Respondent Nos. 2 to 4 had applied for selection to the posts of State Information Commissioner, which were, at the relevant time, tenure posts having tenure of 5 years. The Respondent Nos. 2 to 4 were selected and appointed as State Information Commissioners on 6th October 2010 and there is no dispute that their tenure has since concluded on or about 5th October 2015.

6. The MAT, in the impugned judgment and order has no doubt commented upon the entire selection process for appointments to the posts of State Information Commissioner. The MAT has held

that there were no proper rules and even the selection process '*was not entirely free from being blame-worthy*'. Since the Petitioner endorses these findings, it is obvious that the Petitioner was not entitled to any appointment as a State Information Commissioner on the basis of the very same selection process. Further, considering that Petitioner's application was for appointment to a 5 years tenure post for the period between 2010 and 2015, there is no question of grant of any such relief, at this stage.

7. The MAT, after recording that the selection procedure was not entirely free from being blame-worthy chose not to set aside the appointments of Respondent Nos. 2 to 4 mainly on the ground that the tenure of the said Respondents was to shortly conclude. The impugned judgment and order was made in April and the tenure of the said Respondents was to conclude in October. Although, we do not approve of such reasoning, the fact remains that the tenure of Respondent Nos. 2 to 4 has concluded sometime in October 2015 itself. Therefore, the Petitioner can seek no further reliefs on this count as well.

8. For the aforesaid reasons, we see no good ground to entertain the present Petition. This Petition is therefore rejected. There shall however be no order as to costs.

(M.S.SONAK, J.)

(A.S.OKA, J.)

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Priya
Rajesh
Soparkar

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Priya Rajesh
Soparkar

Date: 2018.08.28
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