

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4670 OF 2016

Shri B. Gautam Sachin Kumar ..Petitioner

Vs.

Union of India and Others ..Respondents

WITH

WRIT PETITION NO. 12252 OF 2016

Mohit Kumar Sharma ..Petitioner

Vs.

Union of India and Others ..Respondents

Mr. A. S. Rao I/b Mr. Prashant C. Kamble, for the Petitioner in WP.4670/16 and Mr. A. S. Rao, for the Petitioner in W.P.No.12252/16.

Mr. G. Hariharan a/w Mr. M. S. Bharadwaj I/b A. A. Ansari, for the UOI.

Mr. V. A. Gangal a/w Mr. Anoop Deshmukh, for Respondent Nos. 2 and 3.

CORAM:-B.R.GAVAI & B. P. COLABAWALLA,JJ.

DATE :- JANUARY 11, 2018.

P. C.:

The Petitioners are challenging the selection process

on the ground that the selection process which provides for 50% marks for oral interview is arbitrary.

2 No doubt that the Hon'ble Apex Court in the catena of cases has held that there should not be excessive percentage of marks for viva voce. We are prima facie of the view that providing 50% marks for oral interview would not be sustainable.

3 However, the present Petitions deserve to be dismissed on the other principle of law as laid down by the Hon'ble Apex Court. The Apex Court in the catena of cases right from in the case of **Madan Lal Dhingra v/s the State of Jammu and Kashmir reported in AIR 1995 SC 1088** and even the judgment in the case of **Pradeep Kumar Rai and Others v/s Dinesh Kumar Pandey and Others reported in (2015) 11 SCC 493**, on which Shri. Rao strongly relies, has categorically held that once a person has participated in the selection process and failed to get selected, it is not open for him to turn around and challenge the selection process. The Apex Court has held that this would amount to taking chances which are not permitted in law.

4 The Petitioners having applied in pursuance to the advertisement having participated in the interview in pursuance to the selection process have approached this Court after they failed to get selected in the selection process.

5 In that view of the matter, in view of the aforesaid judgment of the Apex Court, both the Petitions deserve to be dismissed and as such are dismissed.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)