

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 8179/2017

(AJITPALSINGH NIRAMALSINGH KHALSA **VERSUS** STATE OF MAHARASHTRA & ANOTHER)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri P.J. Mehta, counsel for the petitioner.
 Shri A.M. Joshi, A.G.P. for the R-1.
 Shri Sandeep Dere with Shri K.P. Mahalle, counsel for the R-2.

**CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.**

DATE : JANUARY 18, 2018.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, dated 06.12.2017 dismissing the original application filed by the petitioner with costs.

The petitioner had applied in pursuance of an advertisements bearing No.2/2017 for the post of Assistant Motor Vehicle Inspector. The petitioner had applied for the 5% quota of posts that were reserved for the sports category. According to the petitioner, though he had succeeded in the preliminary examination, he was not called for the interview as a result of which, he was not able to produce the certificate issued by the Deputy Director of Sports. The petitioner challenged the selection process after he was not called for interview before the Maharashtra Administrative Tribunal mainly on the ground that the concerned respondents had not sought the sports certificate from the candidates as per the Government Resolution dated 01.07.2016 along with the online application. According to the petitioner, the certificate ought to have been called along with the application but the same was not done. The M.P.S.C. filed the affidavit-in-reply. It was pointed out by the M.P.S.C. before the Tribunal that the

petitioner had appeared at the preliminary examination but was unsuccessful. It was pointed out that the petitioner had secured only 11 marks, whereas the other meritorious candidates that were entitled for appointment had secured as many as 23 to 24 marks in the Sports-Open category. It was pointed out that since the petitioner could not secure the cut-off marks, he was not considered for interview. On an appreciation of the material on record, the Tribunal dismissed the original application filed by the petitioner with costs.

On hearing the learned counsel for the parties and on a perusal of the impugned order, we find that there is no scope for interference with the impugned order in exercise of the writ jurisdiction. The petitioner could not have challenged the eligibility criteria in the advertisement after participating in the selection process. The Tribunal rightly considered the law laid down by the Hon'ble Supreme Court that a candidate participating in the selection process would not be permitted to turn around and challenge the advertisement after he is unsuccessful. Though the cut-off marks for the candidates from Sports-Open category were 13, the petitioner had secured only 11 marks and hence, the candidature of the petitioner was not considered any further. The Tribunal rightly held that the petitioner was not a meritorious candidate and hence, he could not have effectively challenged the advertisement after he had participated in the selection process. We do not find any illegality, whatsoever in the order of the Tribunal. The order of the Tribunal is just and proper and is based on the law laid down by the Hon'ble Supreme Court in the judgments reported in **(2008) 4 SCC 171** (*Dhananjay Malik & Others Versus State of Uttaranchal & Others*), **2010(12) SCC 576** (*Manish Kumar Shahi Versus State of Bihar & Others*) and **2011(1)**

SCC 150 (*Vijendra Kumar Verma Versus Public Service Commission, Uttarakhand & Others*). Since the petitioner could not have challenged the criteria in the advertisement after participating in the selection process and since the petitioner is not meritorious, the Tribunal had rightly dismissed the original application.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

With the disposal of the writ petition, C.A.W. No. 115 of 2018 also stands disposed of.

JUDGE

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