

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

WRIT PETITION NO. 4581 OF 2015

1. Rani D/o. Tukaram Kshirsagar,
Age : 23 years, Occu. Household,
R/o. Bobadewadi, Tq. Kaij,
Dist. Beed.
 2. Shrinivas S/o. Vitthalrao Bobade,
Age : 27 years, Occu. Nil,
R/o. As above.
- Petitioners

Versus

1. The State of Maharashtra,
Through : The Secretary,
Urban Development Department,
Mantralaya, Mumbai.
 2. The Block Development Officer,
Panchayat Samiti, Kaij,
Tq. Kaij, Dist. Beed.
 3. Grampanchayat Bobadewadi,
Tq. Kaij, Dist. Beed,
Through its Gramsevak
 4. Mahadeo S/o. Bhaskar Karpe,
Age : 22 years, Occu. Student,
R/o. Bobadewadi, Tq. Kaij,
Dist. Beed.
 5. Narayan S/o. Nagorao Borul,
Age : 25 years, Occu. Agril,
R/o. As above.
- Respondents

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Shri. Manish P. Tripathi, Advocate for the petitioners
Shri. K. N. Lokhande, AGP for respondent/State
Shri. P. P. Dama, Advocate for respondent No. 2
Shri. B. M. Dhanure, Advocate for respondent no. 3
Mrs. Sonawane h/f Shri. B. R. Kedar, Advocate for respdts No. 4 & 5

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**CORAM : PRASANNA B. VARALE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 6TH SEPTEMBER, 2019

ORAL JUDGMENT [PER PRASANNA B. VARALE, J.] : -

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at admission stage.

2. Admitted controversy is raised in the petition by way of a challenge to the appointment dt. 30.03.2015 issued in favour of respondents No. 4 and 5, for the post of Gram Rojgar Sevak and Peon, respectively. The facts which are not in dispute are, the Gram Panchayat Bobadewadi, Tq. Kaij, Dist. Beed, thought it fit to appoint the eligible candidates for the posts of Gram Rojgar Sevak and Peon. Accordingly, the Public Proclamations dt. 15.01.2015 for the said posts were issued and the same were affixed on the Notice Board. Copy of these Public proclamations are annexed to the petition at Exh. B. Perusal of the proclamation for the post of Gram Rojgar Sevak shows that, the minimum qualification for the said post was 12th std. passed. Subsequently, by way of Corrigendum dt. 13.03.2015, it is stated that in the earlier proclamation an error occurred in respect of the minimum qualification and though it is

stated in the earlier proclamation dt. 15.01.2015 that the requisite qualification for the post of Gram Rojgar Sevak as 12th std. passed, the minimum qualification for the said post be read as 10th std. passed and it is in view of the Government Circular. The corrigendum was also affixed on the Notice Board. In accordance with the said proclamation/advertisement, the petitioners (who happen to be the husband and wife) submitted their applications for the post of Gram Rojgar Sevak and Peon. In their applications, they submitted that they possess requisite qualification and they be considered for the said posts.

3. The Gram Sabha was held on 27.03.2015 in the office premises of Gram Panchayat, Bobadewadi, under the Chairmanship of Smt. Sumitra Jalindar Tonde, wherein two subjects namely appointments to the posts of Gram Rojgar Sevak and Peon, were taken up. Copy of the Resolution dt. 27.03.2015 passed in the said Gram Sabha is placed on record at Exh. D. Perusal of the said Resolution shows that, for the first subject i.e. appointment to the post of Gram Rojgar Sevak, the Gram Sabha had a discussion about the qualification of the candidates.

4. It is stated in the said Resolution that, in all three applicants had submitted applications for the post of Gram Rojgar

Sevak namely; (1) Smt. Rani Tukaram Kshirsagar, (2) Mr. Mahadeo Bhaskar Karpe and (3) Mr. Shrinivas Vitthalrao Bobade. Then it is recorded in the said Resolution that, Mr. Shrinivas Vitthalrao Bobade withdrew his candidature for the post of Gram Rojgar Sevak. As such, there were only two candidates left in the fray i.e. petitioner no. 1 and respondent no. 4. The said Resolution also states about the petitioner No. 1 – Smt. Rani Kshirsagar having better academic qualification than Mr. Mahadeo Bhaskar Karpe. The Secretary of the meeting opined that, as the petitioner no. 1 has better academic qualification, she be appointed for the post of Gram Rojgar Sevak. Then, as per the procedure and the provisions of law, as there was a dispute the issue was put to vote. Majority of members i.e. 119 residents who attended the meeting showed support in favour of Shri. Mahadeo Bhaskar Karpe (R-4), and the remaining 31 members supported the claim of Petitioner No. 1.

5. Insofar as the post of Peon is concerned, again the Resolution refers to receipt of six applications for the said post. The applicants were Shri. Admane Annasaheb Balasaheb, Narayan Nagorao Borul, Bobade Shrinivas Vitthalrao, Harshad Dnyaneshwar Karpe, Rani Tukaram Kshirsagarr and Shankar Dnyanoba Kshirsagar. Out of these six candidates, petitioner No. 1 – Rani Kshirsagar and Shankar Dnyanoba Kshirsagar withdrew their claim for the post of

Peon. Again the Secretary of the Gram Sabha opined that, as petitioner No. 2 has better academic qualification, he be appointed for the post of Peon. Again as there was dispute, it was put to vote. One Shri. Narayan Nagorao Borul was selected by majority of the residents i.e. in all 118 residents supported his claim for the post of Peon, whereas petitioner no. 2 was supported by only 32 residents. One Mr Admane was supported by only 4 residents and Mr. Harshad Karpe was supported by only 1 member. Thus, the Resolution states that, Shri. Mahadeo Bhaskar Karpe, who secured majority of votes, was selected for the post of Gram Rojgar Sevak. Similarly, for the post of Peon, Mr. Narayan Nagorao Borul was selected. Accordingly, the appointment orders were issued to them.

6. Shri. Tripathi, learned counsel for the petitioners vehemently submitted that, the petitioners were having better academic qualifications. They ought to have been appointed to the respective posts of Gram Rojgar Sevak and Peon. The learned counsel for the petitioners laid heavy emphasis on the Government Resolution dt. 02.05.2011. Copy of the said Government Resolution is annexed at 'Exh.R-1' to the Affidavit-in-reply filed on behalf of respondents No. 4 and 5.

7. Now, bare perusal of the Government Resolution

dt.02.05.2011 clearly shows that, Clause 3.1 refers to minimum qualification for the post of Gram Rojgar Sevak and it also refers to the duties of Gram Rojgar Sevak. It is stated in clause 3.1 that, the basic duty of Gram Rojgar Sevak is of maintaining the record and providing assistance to maintain record. Then it is stated that, the minimum academic qualification required for the post of Gram Rojgar Sevak is 10th passed and the preference be given to a candidate having passed 12th std. examination.

8. It was the submission of the learned counsel for the petitioner that, as petitioner no. 1 was having better academic qualification, she ought to have been selected for the post of Gram Rojgar Sevak in view of the Government Resolution dt. 02.05.2011.

9. Though at the first blush submission of the learned counsel for the petitioner looks attractive, we are unable to accept the statement for the simple reason, that it is not the case that the Gram Sabha was unaware of the academic qualification of the candidates. On the contrary, it is specifically stated in the Resolution passed by Gram Sabha that, petitioner No. 1 was having better academic qualification but then ultimately the selection was put to vote by majority. The majority of the residents of village who were present in the meeting supported the claim of Shri. Mahadeo Bhaskar Karpe i.e.

119 residents supported him for the post of Gramrojgar Sevak and similar is the situation insofar as the another post i.e. Peon. The petitioners in the petition are not challenging any provision of law. It is simply the statement that, the petitioners are having better academic qualification.

10. At the cost of repetition, we state that the qualification of the petitioners was well considered in the meeting but the majority was in favour of the another candidates and if the democratic pattern for selection is accepted in the meeting duly supported by the provisions of law, this Court cannot thrust other candidates in place of candidates selected by the Gram Sabha by a majority. Learned counsel for respondents No. 4 and 5 supports the order impugned in the present petition. On this count alone, as we find that, the petition is devoid of any merit, the same deserves to be dismissed and is accordingly dismissed. Rule is discharged.

[AVINASH G. GHAROTE]
JUDGE

[PRASANNA B. VARALE]
JUDGE