

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

WRIT PETITION NO. 11221 OF 2018

Kirankumar Baliram Kasule .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Shriraj R. Wakale, Advocate for the Petitioner.

Shri S. B. Pulkundwar, A.G.P. for the Respondent No. 1.

The Respondent No. 2 is served.

Shri A. S. Deshpande, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 22ND APRIL, 2019.

FINAL ORDER :

. The petitioner had participated in the selection process for the post of Assistant Director, Maharashtra State Accounts and Finance Services, Group – A pursuant to an advertisement. The petitioner though secured more marks than the respondent No. 3 is not considered for the said post on the ground that, he does not possess necessary qualification.

2. Mr. Wakale, the learned advocate for the petitioner submits that, the authorities and the Maharashtra Administrative Tribunal failed to consider that the degree of

B.B.A. is a degree in commerce. The petitioner has obtained the degree of B. B. A. from Pune University and the course structure for B.B.A is the same as for the degree in commerce faculty. The said aspect though was brought to the notice of the Tribunal, the Tribunal did not consider the same in its correct perspective. The learned counsel further submits that, advertisement does not specify that degree of commerce would not include the degree of B.B.A. with the curriculum prescribed by the university offering the degree course in B.B.A. as a degree in commerce faculty. The respondents could not have taken a different view. The learned counsel submits that, even advertisement issued by the Indian Space Research Organization for recruitment of the post of Accounts Officer, Purchase and Stores Officer, the qualification of B. Com, B.B.A/B.B.M. is considered equivalent. All these aspects are not considered.

3. Mr. Tambe, the learned Assistant Government Pleader for the Respondent No. 1 submits that, the qualification of B.B.A. is not qualification in commerce. The Maharashtra Public Service Commission has filed an affidavit to the effect that qualification of B.B.A. cannot be considered as a degree in commerce. According to the learned A. G. P. the rules are framed under proviso to Article 309 of the Constitution of India and the Rules also are clear. Same nowhere prescribe B.B.A. qualification.

4. Mr. Deshpande, the learned counsel for the respondent No. 3 submits that, the Tribunal has rightly considered all the aspects in its correct perspective and he also refers to the letter issued by the Assistant Secretary, Finance Department, who has given his opinion that B.B.A. is more concerned with the management and not with the commerce.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. The qualification prescribed in the advertisement is as per the rules of the Maharashtra Finance and Accounts Services (Director, Joint Director, Deputy Director, Assistant Director and Accounts Officer, Group 'B' (Gazetted) (Recruitment) Rules, 2012. Said rules are framed under the proviso to Article 309 of the Constitution of India.

7. To determine whether a particular degree is equivalent or a degree in commerce is prerogative of the State Government and the employer. They are experts in the field. This Court would not substitute its views to the views of experts. M.P.S.C. has filed affidavit to the effect that B.B.A. is not a commerce degree.

8. A particular degree is required by an employer considering

the nature of the employment and the post. When the respondent authorities have come with the case that they did not consider the degree of B.B.A. as a degree in commerce, it will not be open for the Court to substitute the expertise of the experts. In the Rules, so also advertisement alternative to commerce degree has been given as M.B.A. and B.B.A. is not referred therein.

9. In the light of the above, no case for interference is made out. The writ petition is disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb / April 19