

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12207 OF 2018

Bhagyashree Sanjay Kapate

...Petitioner

Versus

Zilla Parishad, Nanded

Through its Chief Executive Officer and Ors.

...Respondents

Mr. S.S. Deshmukh, Advocate for Petitioner

Mr. S.B. Pulkundwar, Advocate for Respondent Nos 1 and 2

Mr. A.B. Dhongade, Advocate for Respondent No. 3

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 7th MARCH, 2019

ORAL ORDER:

1. Pursuant to advertisement for the post of Community Health Provider at Health Sub-Centre, Ardhapur, Dist. Nanded, the petitioner had applied. The petitioner participated in the selection process and secured aggregate of 64.01 % marks and the remark was mentioned as eligible. The said list was prepared on 30th July, 2018. On 2nd August, 2018, again after considering the objections and giving opportunity to the candidates to comply with the deficiencies as was notified in the said list, the list came to be prepared. In the said list, the name of the petitioner appeared at Sr. No. 129 with the remark 'eligible' from amongst candidates for Ardhapur Health Sub-Centre. Thereafter, the final list was prepared.

The name of petitioner again appeared in the final list dated 07.08.2018 as an eligible candidate. The petitioner was shown to have secured 64.01 % marks. However, the petitioner was not sent for training.

2. Mr. Deshmukh, the learned Counsel for the petitioner has referred to the various documents to suggest that permanent place of residence of the petitioner is of village Yelegaon, Tal. Ardhapur. As no shortcomings were notified as against the name of the petitioner, petitioner did not have the opportunity to submit the documents showing permanent place of residence such as the Card issued by the Election Commission, certificate of age, Nationality and Domicile.

3. Mr. Pulkundwar, the learned Counsel submits that in the application filed by the petitioner pursuant to the advertisement, the petitioner had shown the address of her father. The same was of Nanded and not of village Yelegaon, Tal. Ardhapur. As such, the petitioner is not entitled for additional 20 marks and the petitioner had also not annexed the documents as has been filed in the present Writ Petition showing her permanent place of residence. As in the application, her permanent place of residence was shown as Nanded. The case of the petitioner was considered as such, and not as resident of Yelegaon, Tal. Ardhapur.

4. It appears that the petitioner in the application form had mentioned the address as Nanded and the documents produced along with the Writ Petition such as the Identity Card issued by Election Commission of India shows the address of village Yelegaon, Tal. Ardhapur. The Aadhar Card issued by the Government of India records the residence as Yelegaon, Tal. Ardhapur. The certificate of age, Nationality and Domicile also records the residence as Yelegaon, Tal. Ardhapur. All these documents are prior to filling in the application form.

5. We certainly would not have considered the case put forth by the petitioner because the petitioner had not annexed the documents which are filed along with the Writ Petition at the time of filing of the application and in the application, the address was shown as Nanded. However, it has been observed that those candidates wherein deficiencies were found were given opportunity to rectify the deficiencies. We are exercising of our jurisdiction for two reasons - (i) thrice the list was published of eligible candidates and the name of the petitioner was shown as eligible candidate on each occasion and, (ii) those candidates against whom the deficiencies were found in the list were given opportunity to comply with the deficiencies, such as in respect of one Mr. Shinde. He was given opportunity to file the residence certificate. If the petitioner would have been given opportunity, the petitioner could have filed

the residence certificate, which are filed along with the Writ Petition with the authorities. There are other candidates also, who were given opportunity to comply with the deficiencies and their cases were considered at the time of final selection.

6. The petitioner approached this Court immediately and on 31.10.2018, this Court directed the respondents to keep one post of open category vacant.

7. Mr.Pulkundwar the learned Counsel on instructions submits that one post of candidate for open general category is vacant.

8. Considering the aforesaid conspectus, as has been observed supra, the respondents shall consider the petitioner as an eligible candidate and after verifying the documents of the residence of the petitioner of showing her residence as Yelegaon, Tal. Ardhapur, the respondents shall consider the claim of the petitioner. After verifying the document, if it is found that the petitioner is residence of Yelegaon, Tal. Ardhapur shall consider the petitioner as eligible and further steps be taken accordingly.

9. After verifying the documents and the respondents coming to the conclusion that the petitioner is resident of Yelegaon, Tal. Ardhapur, shall give additional 20 marks to the petitioner and

consider the case of the petitioner. The same shall be done expeditiously and preferably within period of three weeks.

10. The Writ Petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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