

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14569 OF 2017

- 1] Ashwini d/o Ashok Pokale
Age: 28 years, Occ: housewife,
R/o. Shillegaon, Tq. Gangapur,
Dist. Aurangabad.
- 2] Amolkumar s/o Ashokrao Raut,
Age: 29 years. Occ; labourer
R/o. Shillegaon, Tq. Gangapur,
Dist. Aurangabad
- 3] Kalyan s/o Pandharinath Narode
Age: 29 years, Occ: Labourer
R/o. Shillegaon, Tq. Gangapur,
- 4] Yasmeen d/o Mohammad Pathan,
Age: 32 years, Occ; Housewife,
R/o. Golegaon, Tq. Gangapur,
Dist. Aurangabad.
- 5] Sachin s/o Pandurang Pawar,
Age: 29 years, occ: Farmer
R/o Jamgaon, Tq. Parner,
Dist. Ahmednagar
- 6] Sameer s/o Bharat Gunjal,
Age: 29 years, Occ: Farmer
R/o Dahithane, Tq. Parner
Dist. Ahmednagar
- 7] Ashwini d/o Ganpat More,
Age: 30 years, Occ: Housewife
R/o Bhalwani, Tq. Parner,
Dist. Ahmednagar

.....Petitioners

Versus

- 1] The State of Maharashtra,
Through Principal Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai and others
- 2] The Maharashtra State Examination Bureau,
Through its Commissioner, Pune
- 3] Chief Executive Officer
Zilla Parishad, Aurangabad
- 4] The District Committee for CET
Through Education Officer (Primary)
Zilla Parishad, Aurangabad.Respondents

.....

Mr. Milind K. Deshpande, Advocate for petitioners

Mr. S. N. Kendre, Assistant Government Pleader for respondent
no. 1

Mr. Anup R. Nikam, Advocate for respondent no. 2

Respondents no. 3 & 4 served - absent

.....

CORAM : **SUNIL P. DESHMUKH &**
S. M. GAVHANE, JJ.

DATE: **26th September, 2019**

Oral Order:

1. Heard learned counsel for the parties.
2. Petitioners are before this court under present writ petition, purported to have been aggrieved by the merit list published in July, 2017, whereunder the candidates have been selected possessing marks less than those secured by the petitioners.

3. After hearing learned counsel for the parties, it transpires that petition relates to selection process embracing a Common Entrance Test for recruitment to post of shikshan sevaks, pursuant to the advertisement published in December, 2009.

4. It is the contention of Mr. Deshpande, learned counsel appearing for petitioners that option had been given by candidates appearing in examination selecting a language as medium for test *viz*, English, Marathi and Urdu. According to the learned counsel, question papers ought to have been according to their medium of language opted for, however, at eleventh hour, decision had been changed and the test had been conducted in Marathi medium but merit lists were separately published causing gross injustice to candidates in recruitment process. He states that petitioners had opted Marathi medium in said test. After results were declared, some disputes arose and the matter was taken up before this court under writ petition bearing no. 1829 of 2011 whereunder certain order has been passed and thereupon, after re-assessment of performance in tests of candidates, revised final result had been published in 2012. Pursuant to

the same, in 2015, finalization of merits of selected candidates had taken place. However, merit list was published in July, 2017 giving rise to cause of action for petitioners to be before this court.

5. Learned counsel Mr. Deshpande purports to point out that lot of petitioners have secured more than 100 marks, yet, candidates securing less marks than petitioners have been selected, this caused gross injustice to the petitioners.

6. Countering aforesaid submissions, learned counsel for respondent no. 2 - Mr. Nikam submits that the persons who have been enlisted in select list and who have contended to have secured less marks than petitioners, come from 20% allocation to English Medium candidates and for them cut-off marks had been different than general candidates. Petitioners had never been considered from English medium stream. It is not the case of petitioners that their education had taken place in English medium.

7. So far as general category candidates are concerned, cut off marks are higher than the marks secured by petitioners. In the circumstances. It is not the case that proper procedure had not been followed.

8. Having regard to aforesaid, it may also have to be taken into consideration, while grievance in respect of medium of language in common entrance test, petitioners indisputably appeared at the same in Marathi medium and conducting the test in Marathi medium had not been made a grievance in 2009-2010 that examination had not been taken in English medium nor such grievance had ever been made till select list had been published in July, 2017. In such case, grievance on that ground is difficult to be acceded to. So far cut off marks medium-wise are considered, that is an undisputed position.

9. In view of aforesaid, it is difficult for us to appreciate that any injustice has been caused to the petitioners.

10. Petition does not carry substance worth consideration, therefore, is dismissed.

[S. M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

vdk