

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1717 OF 2019

Ajit Rashid ShaikhPetitioner
Versus
The State of Maharashtra & Anr.Respondents

**WITH
WRIT PETITION NO.11259 OF 2013**

Shaikh Shakil Shaikh Shaukat & Ors.Petitioners
Versus
The State of Maharashtra & Ors.Respondents

Mr. G.D. Talreja, Advocate for the Petitioner in WP/1717/2019.
Mr. N.V. Bandiwadekar, Advocate for the Petitioner in WP/11259/2013.
Mrs. Rupali Shinde, AGP for the Respondent-State.
Mr. A.M. Kulkarni i/b. V.R. Gaikwad, Advocate for the Respondent No.2.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 8th AUGUST, 2019.

P. C. :

1. In furtherance of our earlier directions, learned AGP has placed on record an affidavit filed by Shri. Dinesh Madhav Sonavane, Deputy Secretary, Minorities Development, Government of Maharashtra dated 31st July, 2019. In the said affidavit, a categorical statement is made that in pursuant to the direction issued by this Court, the recruitment rules of the employees have been finalized and a copy of the rules so framed on 12.07.2019 are placed on record along with the said affidavit at Exhibit 'A', page 108.

2. On these rules being framed, Mr. Bandiwadekar, learned counsel for the petitioner in Writ Petition No.11259 of 2013 has invited our attention to the relevant rules of Maulana Azad Alpasankhyank Arthik Vikas Mahamandal Maryadit, Mumbai and he submits that though the rules are now framed, in accordance with their rules, immediate steps need to be taken since the petitioners are working with the respondent corporation for a considerable long period of time and now since decision has been taken to absorb their services and made part of the Rules. Mr. Bandiwadekar has invited our attention to Rule 4 of the rules of 2011, which reads thus:-

“The employees, who has been appointed on contractual basis by the Corporation after following due procedure of recruitment and whose age was less than the upper age limit prescribed by the Government for direct recruitment at the time of his appointment and is in service of the Corporation, shall be eligible for being absorbed in the service of the Corporation on regular basis, subject to condition that he fulfills the eligibility criteria prescribed here-in-below for direct recruitment to the post on which he is working. However, this provision shall apply to only those employees who were appointed before the date of commencement of these Rules.”

3. Our attention is also invited to Rule 6, which contemplates Constitution of Selection Committee for conducting selection process to fill in the vacant posts by way of nomination.

4. Sub-clause (iii) of Rules 6 contemplates that this committee is empowered to take decision to absorb all contractual employees in the service of the corporation on regular basis as per Rule 4. Since the rules

have been framed on 12.07.2019, we have apprehension whether the committee has contemplated under Rule 6 has been constituted and is in existence. If it is not done so, we direct that the said committee under Rule 6 should be constituted within a period of four weeks from today. The cases of the petitioners should be placed before the Committee constituted under Rule 6 and the committee would take a decision in absorption of the petitioners on being satisfied about the eligibility criteria within a period of two months thereafter.

5. Needless to state that since the Rule 4 contemplates that the benefit of absorption is only to be extended to those employees, who are in service of the corporation and those petitioners who are not in service of the corporation for whatsoever reason, will not be entitled for any benefit. We also make it clear that the interim order passed in the writ petition as regards continuation of the services of the petitioners would continue to remain in force till the date of their absorption in terms of the Rules.

6. With the aforesaid directions, we dispose of the writ petition.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]