

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5452 of 2017
Shri Kishor s/o Pundlikrao Maswadkar

v.

The State of Maharashtra, through its Principal Secretary for the Ministry of
Education and Higher Education Mantralaya, Mumbai, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri G.R. Sadar, Advocate for Petitioner.

Shri V.A. Thakre, Assistant Government Pleader for Respondent No.1.

Shri S.Y. Deopujari, Advocate for Respondent No.2.

Shri P.R. Pimpalkhute, Advocate for Respondent No.3.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Dated : 3rd January, 2019

The appointment of the respondent No.3 to Class-IV post of Health Assistant in the respondent No.2-University is the subject-matter of challenge in this petition. The petitioner was one of the competitors. The challenge is on the ground that the petitioner obtained 90 marks out of 100, whereas the respondent No.3 secured only 60 marks in the written examination. The respondent No.3 was selected only on the basis of his performance in the oral interview. The reliance is placed upon the decision of the Apex Court in the case of *Ashok Kumar Yadav and others v. State of Haryana and others*, reported in AIR 1987 SC 454.

The selection and appointment is made in accordance with the provisions contained in Direction No.5 of 2010 issued by the respondent No.2-University, which prescribe the sole criterion of oral interview in Clause 6(3). No doubt, that the written examination was conducted, but it was not for selection of the candidates but was a screening test to shortlist the candidates. This was made clear in the advertisement also, which we have perused. In our view, therefore, the performance in the written examination was hardly of any significance. The persons who secured more than 50% of the marks in the written examination were held qualified to appear for the oral interview. During oral interview, the performance of the respondent No.3 was found to be the best and hence he was selected.

The decision relied upon is based upon the criteria of written test and oral interview.

We do not find any mala fide or illegality in the process of selection.

The petition is dismissed.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)