

vdk

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13776 OF 2019

Atmaram Motiram Gutte

VERSUS

The State of Maharashtra and others

...

Advocate for petitioners : Mr. H. K. Munde
AGP for respondent - State: Ms. Geeta L. Deshpande
Advocate for respondents no. 2 and 3: Mr. D. V. Gade

...

[CORAM : SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.]

DATE : 8th October, 2020

ORDER :

1. Parties are *ad-idem* at relevant factual aspect that petitioner is a project affected person and holds certificate to that effect. Petitioner contends that since land/property owned by his father had been acquired by The Maharashtra State Power Generation Company Limited for Thermal Power Station at Parli Vaijinath, he has been affected person by said project and has now completed I.T.I course. He applied to the respondents for Advanced Skill Training for absorption as a trained staff from project affected persons' category according to prevailing scheme.

Said application appears to have been negated, referring to that since crime (F.I.R.) bearing no. 21 of 2019, is pending against the petitioner in police station at Parali and till he is acquitted, his request would not be considered and can not be accommodated for Advanced Skill Training Programme, under communication dated 12th March, 2019, issued by respondent no. 3. Petitioner is before this court aggrieved by said communication.

2. Learned counsel for petitioner has brought to our notice judgment passed on 10th December, 2018 in a similar writ petition bearing no. 1499 of 2018, wherein as well, petitioner's application for Advanced Skill Training for absorption in service from project affected persons' category had been refused for registration of petitioner there. Learned counsel for petitioner apart from advertizing to aforesaid has drawn our attention to that division bench has taken into account legal position as emerging from the operation of the concerned rules, highlighting that there is no provision to disqualify a person only on the basis of registration of crime against him. The division bench had considered it appropriate to set aside the letter/communication refusing to accede to the request for Advanced Skill Training, if he otherwise fulfills criteria/eligibility for such training.

3. Learned counsel for petitioner, therefore, urges that pendency of criminal case against present petitioner, having regard to decision of division bench in writ petition no. 1499 of 2018 shall not obstruct his candidature and the respondents be directed to consider petitioner for Advanced Skill Training.

4. On the other hand, learned counsel Mr. Gade, appearing for respondents no. 2 and 3, though fairly concedes to the factual position, he purports to contend that the communication has been made primarily due to criminal case against petitioner, however, alongside submits that it may be taken into account that application by the petitioner is being claimed to be not in proper form.

5. Perusal of impugned communication shows that refusal to accept application of the petitioner is for the reason that criminal prosecution is pending against the petitioner. A division bench of this court has already taken into account similar position wherein it has taken into account clause 10 (a) of the General Conditions of Service regulations would not authorise negation of application for the reason referred to in impugned order. In the circumstances, we deem it appropriate to follow the suit in present matter since major and broad facts are same and technicality now being put forth by the respondents which is not

the reason for refusal should not be allowed to undermine the cause.

6. We, therefore, set aside impugned communication dated 12th March, 2019, issued by respondent no. 3 – The Chief Engineer, The Maharashtra State Power Generation Company Limited, Thermal Power Station, Parli Vaijnath and direct concerned respondents to consider the application of petitioner for Advanced skill Training by allowing submission of a proper form in substitution (in addition to his original application), if he otherwise fulfills criteria/eligibility for Advance Skill Training in accordance with the rules.

7. Writ petition stands disposed of.

[R.G. AVACHAT]
JUDGE

vdk/13776.19WP

[SUNIL P. DESHMUKH]
JUDGE