

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1011 WRIT PETITION NO.3316 OF 2021

**GHANSHYAM NAVNATH BHAPKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER**

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Advocate for Petitioner:

Mr. S. D. Tawshikar h/f. Mr. Patil Vishnu Y.

AGP for Respondents: Mr. P. S. Patil

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 26th FEBRUARY, 2021

PER COURT:

1. The petitioners challenge the notice issued by the respondent for conduct of examination as per advertisement of February-2019 for 54 different posts on single day in two shifts. The exams are scheduled on 28.02.2021.

2. Mr. Tawshikar, learned Counsel for the petitioners submits that the advertisement in question did not restrict the rights of the petitioners to apply for two or more posts. The advertisement was for 54 posts. Some of the petitioners have applied for 5 to 7 posts. If the

examinations are held on one day, then the petitioners would be deprived from exploring their chances of seeking employment for various posts. The action of the respondents is arbitrary and violative of Article 14 of the Constitution of India. The advertisement is issued in the year-2019, and now in haste, the exam is scheduled on 28.02.2021. The said date is fixed on 29.01.2021. In Covid-19 pandemic situation where the Classes / exams are required to be conducted online, the respondents are conducting physical examinations. The advertisement did not prohibit the candidates from applying at different centres. Even, the advertisement provided that candidate can give three preferences. The petitioners have given preferences to various centres in different districts. Now, for 14 posts the exam is conducted in first shift and for 40 posts the exam is conducted in second shift. If the petitioners apply for the post of Junior Clerk and Senior Clerk the exam for both the posts are held in the same shift. The petitioners would be deprived from

participating in the exam for one post and the right to appear for the exam would be restricted to the single post. The same was not the object of the advertisement. The very purpose of inviting applications for two or more posts pursuant to the advertisement is frustrated. The respondents be directed to conduct the examination in more phases.

3. Mr. Patil, the learned Additional Government Pleader submits that, though, the posts are to be filled in, the Covid-19 measures are to be implemented, the State Government has to optimize all the resources and is required to address the increase in load on healthcare. There are about 4,23,000/- applications received. Less than 25% candidates have applied for two or more posts. The Health Department would fill in only 50% posts at present.

4. We had asked the learned A.G.P., if the exam can be conducted in more phases. The learned A.G.P., on instructions, submits that now it would

not be possible. The examination is scheduled on 28.02.2021, arrangements are made for transportation of the exam papers and all other arrangements have been made. Except the 12 petitioners, nobody has raised any objection to the conduct of the examination. According to the learned A.G.P., the State requires immediate staff of X-ray technicians, Laboratory Technicians, Staff Nurse and all other staff, the recruitment is required to be made emergently.

5. The advertisement is issued in the year-2019 for filling in the various posts detailed in the advertisement. At the outset, we fail to understand the propriety in inviting the applications from one candidate for various posts. In the advertisement there are many posts which have no co-relation with each other. In the petition, we observed that, though, the candidate may belong to one place he has opted for centre at different places. Petitioner no. 2 is said to belonging to Taluka - Kannad, District - Aurangabad. He has opted for one centre from

Yavatmal and another from Latur. Similar is the case with other petitioners. We fail to understand the propriety in availing the centres at distant places from their places of residence, and that too, at different centres in different regions. Clause 3 of the advertisement also directs that the candidate should as far as possible apply from the centres for various posts from the same centre. Clause 3 of the Important Instructions reads thus-

"३) उमेदवार जे वेगवेगळे विभाग / वेगवेगळ्या पदांसाठी अर्ज करत असतील, अशा उमेद्वारांनी सर्व विभाग / पदे यांकरिता सारखी परीक्षा शहरांची निवड करावी. अन्यथा वेगवेगळ्या पदांसाठीच्या परीक्षेसाठी वेगवेगळे परीक्षा केंद्र / शहर मिळण्याची शक्यता नाकारता येत नाही."

6. In view of the said clause, it was imperative that the candidates apply from the same centre for different posts, that, it appears, has not been adhered to by the petitioners.

7. Be that as it may, the respondents also could have adjusted the exams in a manner that it is feasible for the candidates to appear for the exams of the different post they have applied.

Holding examination at one and the same time for various posts in one shift would frustrate the very purpose of inviting the applications for different posts from one singular person. The respondents have to take steps to streamline their process of advertisement and the further steps pursuant thereto.

8. At the eleventh hour it would not be possible to direct the respondents to take corrective steps. It is further submitted that only 50% posts advertised would be filled in and that in this extraordinary times of Covid-19 pandemic, the respondents would require the staff, such as, X-ray technicians, Laboratory Technicians, Nurses, ECG Technicians and other posts for treatment of patients. At this stage we are not interfering with the process of conducting the examinations. At the same time, we cannot resist ourselves from observing that the process that has been undertaken and the advertisement issued certainly requires to be revisited by the authorities in as much as holding the examination for 40 posts in

one shift though allowing the candidates to apply for various posts would frustrate the very purpose of inviting applications for the various posts from one candidate. The corrective measures are required to be undertaken by the authorities in this regard.

9. We leave it to the authorities to consider all these aspects and take corrective measures as and when required.

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

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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