

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

WRIT PETITION NO. 3105 OF 2020

Shankar s/o Jagannath Khedkar .. Petitioner

Versus

The State of Maharashtra
through its Principal Secretary,
General Administrative Department,
Mantralaya, Mumbai and ors. .. Respondents

Mr S.S. Thombre, Advocate for petitioner
Mr S.G. Karlekar, A.G.P. for respondents no.1 and 3
Respondent no.2 served

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

DATE : 23rd April 2021

PER COURT :

1. Heard Mr Thombre, learned Counsel for the petitioner and Mr Karlekar, learned A.G.P. for respondents no.1 and 3.
2. The petitioner has already approached the Maharashtra Administrative Tribunal, Bench at Aurangabad by filing Transfer Application No. 10 of 2018.
3. The petitioner had appeared for the selection process of Police Sub-Inspector. The petitioner had applied from the Open (Sports) category. The petitioner had appeared for the written test.
4. The petitioner did not produce the sports certificate validated by the competent authority. As the petitioner was not considered, the petitioner had filed Transfer Application No. 10 of 2018 before the Maharashtra Administrative Tribunal, Bench at Aurangabad. The Tribunal issued notices and passed an interim order, which reads thus :

"12. In view thereof interest of justice would be protected if applicants are granted interim relief by way of direction to the Maharashtra Public Service Commission (MPSC) to conduct physical test as well as viva-voce and keep one post each vacant from the category of the applicants."

5. Pursuant to the interim orders of the Maharashtra Administrative Tribunal, the respondents conducted the physical test as well as the viva-voce of the petitioner. The Tribunal also directed to keep one post each vacant from the category of the applicants.

6. The learned Counsel for the petitioner submits that the original sports certificate validated by the authority was misplaced on the date of interview. The petitioner thereafter had found the validated sports certificate.

7. The training is to commence from 26.4.2021. The matter is still pending with the Tribunal.

8, The learned A.G.P. submits that the petitioner was not qualified from the general category as the petitioner could not secure the minimum cut off marks.

9. The candidature of the petitioner, if eligible only will have to be considered from the Sports category. It is also accepted by both the parties that appointment order to the petitioner can only be issued after successful completion of the training.

10. The petitioner, under the interim orders of the Tribunal was also directed to be interviewed and the interview of the petitioner has been conducted.

11. In view of the fact that the petitioner's physical test and the interview is conducted pursuant to the interim order of the Tribunal, we pass the following equitable order :

ORDER

(I) In case the petitioner has passed the physical test and the interview as per the standards of the respondents, required for Open (Sports) category, then the respondents may consider the petitioner for sending him to the training course.

(II) The aforesaid order would not create any equity in favour of the petitioner nor the petitioner would get any vested right to seek issuance of appointment order.

(III) The present arrangement is made subject to the decision in the Transfer Application No. 10 of 2018.

(IV) It is also made clear that the present order is passed only because the Tribunal, under the interim orders had directed the interview and the physical test of the petitioner to be conducted and if the petitioner has cleared the physical test and interview as per the standards of the respondents, then only the aforesaid order would take effect.

12. With these observations, Writ Petition stands disposed of.

13. Authenticated copy of this order be given.

(**SHRIKANT D. KULKARNI, J.**)

(**S.V. GANGAPURWALA, J.**)