

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

WRIT PETITION NO.7818/2019

Manoj Ramkrishna Kuite,
aged about 29 Yrs., Occ. Service,
R/o Bangali Camp, Uttam Nagar,
Near Patel Saw Mill, Chandrapur,
Tq. & Dist. Chandrapur 442 401.

..Petitioner.

..Vs..

1. Sachin Moreshwar Mahakalkar,
aged about 33 Yrs., Occ. Not Known,
R/o Pragati Nagar, Near Bina Apartment,
Bangali Camp, Chandrapur 442 001.
2. State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai 400 032.
3. The Director General of Police,
Maharashtra State, Mumbai,
Shahid Bhagatsingh Marg,
Mumbai -1.
4. The District Superintendent of Police,
Chandrapur, Near Collector Office,
Chandrapur, Dist. Chandrapur.

..Respondents.

Mr. Dhanlal S. Sawarkar, Advocate for the petitioner.
Mr. A.C. Dharmadhikari, Mr. Anuj D. Hazare & Mr. P.J. Mehta,
Advocates for respondent No.1.
Mr. N.R. Patil, A.G.P for respondent Nos.2 to 4.

CORAM :- SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED :- 11.10.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.

2. According to the learned counsel for the petitioner, the impugned order is illegal, perverse and bad in law. He submits that the Tribunal has not taken into consideration several material facts and, therefore, the conclusion reached by the Tribunal is perverse and against the provisions of law. The petition is vehemently opposed by respondent No.1. However, the reply filed on behalf of respondent Nos.2, 3 and 4 shows that respondent Nos.2, 3 and 4 are supporting the case of the petitioner.

3. The impugned order passed by the Tribunal which is in favour of respondent No.1 states two reasons. Firstly, the petitioner while submitting online application form had not chosen the option of his applying for one post which was reserved for police ward. The relevant option in the online application form, as seen from the record of the case and also noted by the Tribunal, is taken in the words “none”. This has been considered by the Tribunal and the conclusion reached by the Tribunal that when the petitioner had never applied for his admission on a post reserved for police ward, there was no occasion for the authorities to have treated his application as the one

for the post reserved for police ward and this conclusion cannot be faulted with in any manner. The second reason stated in the impugned order is that there was an allegation made by respondent No.1 that there was suddenly reduction made by the selection authorities in cut-off marks from 68 to 60 and that was done only to favour the petitioner and this allegation was found by the Tribunal as substantiated by several factors of which note has been taken of by the Tribunal which are of absence of any special circumstances and also absence of any recorded order for suddenly reducing the cut-off marks from 68 to 60. Of course, there can be no doubt about the proposition that during the process of selection the cut-off marks can be reduced because sometimes it happens that requisite number of candidates are not available for certain cut-off marks and, therefore, a need arises for reducing or changing the cut-off marks so that the pool of the candidates which is available for consideration is increased to sufficient level. In the instant case, as noted by the Tribunal, there were no special reasons found and / or recorded by the selection authority in suddenly reducing the cut-off marks from 68 to 60 and, therefore, the Tribunal came to the conclusion that this was done only with view to shower favour upon the petitioner.

4. The reasons so given by the Tribunal are based upon the

material available on record and, therefore, we do not find that the impugned order could be termed as perverse or arbitrary or illegal. It is well settled law that while exercising extraordinary jurisdiction of this Court under Article 226 of the Constitution of India this Court does not seat in appeal over the decision taken by the administrative authorities or quasi judicial authorities and this Court is required to ensure that these authorities which are subject to jurisdiction of this Court had acted within their powers and limitations. It is also settled law that just because another view is possible, it would not be open for this Court to take that view which has not been taken by the authorities below unless the view taken by the authorities below is perverse or against any express provisions of law or arbitrary. Such is not the case here. Therefore, we find that any interference in the impugned order is not warranted. The petition is, therefore, **dismissed**. Rule is discharged. No costs.

JUDGE

JUDGE