

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

WRIT PETITION NO.9437 OF 2022

Vitthal Bhikaji Chavan,
Age; 33 years, Occ; Student,
R/o; At Patoda, Post; Hatta
Tq. Sengaon, District; Hingoli.

...PETITIONER

V E R S U S

The Maharashtra Public Service
Commission,
Head Office, 5, 7 and 8th Floor,
Kuprej Telephone Nigam Building,
Maharshi Karve Road, Kuprej,
Mumbai 400021.

...RESPONDENT

.....
Shri Amol B. chalak, Advocate for the Petitioner
Shri K.N Lokhande, learned AGP for respondent-State
.....

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 19.09.2022

JUDGMENT : [PER : SANDEEP V. MARNE, J.]

1. Rule.
2. Rule made returnable forthwith. With the consent of the learned Advocates for the respective parties, heard finally at the stage of admission.

3. By the present petition, the petitioner challenges the order dated 01.08.2022 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No. 695 of 2022. Before the Tribunal, the petitioner had challenged the order dated 25.03.2022 passed by the Maharashtra Public Service Commissioner (for short 'MPSC'), by which, he has been permanently debarred from appearing for examination or recruitment process to be conducted by the MPSC.

4. The petitioner had participated in selection convened by the MPSC vide the advertisement No.106 of 2021 for the appointment on various posts such as the Deputy Collector, Deputy Superintendent of Police, Assistant Commissioner of Sales Tax etc. On account of the date of conducting the preliminary examination being postponed, the petitioner had vented out his frustration on the social network platform "Twitter" by using obscene and unparliamentary language. After issuance of show cause notice, the MPSC proceeded to cancel his candidature by order dated 25.03.2022. That order was the subject matter of challenge before the Tribunal in the Original Application No. 337 of 2022, which was disposed of by the Tribunal by directing the MPSC to re-consider its decision by granting an opportunity to the petitioner to make a request to that effect.

5. The MPSC proceeded to pass order dated 25.03.2022 retaining its earlier decision of cancellation of candidature of the petitioner and debarring him permanently for all examination and selections. The decision dated 21.06.2022 was the subject matter of

challenge before the Tribunal in Original Application No. 695 of 2022. The Tribunal proceeded to dismiss the same by order dated 01.08.2022.

6. We have heard Mr. Chalak, the learned Advocate appearing for the petitioner and have perused the records of the case. Use of vulgar and unparliamentary language by the Petitioner in his tweet is admitted. After his candidature was cancelled, he attempted to show repentance for his conduct. Petitioner was aware that the concerned social media platform was being used by MPSC for giving wide publicity to the candidates about its decisions and that his tweet was bound to be read by all candidates, in addition to the other members of the public. Petitioner was vying to enter government service on a substantially high level post. In such situation, it was expected of him to observe discipline of not protesting about the decision of MPSC on a social media platform. However he not only proceeded to raise his objection about MPSC's decision on such a platform but used vulgar and unparliamentary language. We find that the conduct of the petitioner was such that the decision of MPSC of cancellation of his candidature and debarring him from further selection deserved no interference at the hands of the Tribunal. The decision was taken after giving an opportunity of hearing to the Petitioner. Only relevant material is considered and irrelevant considerations are eschewed while arriving at the decision. In such circumstances, the Tribunal, in exercise of power of judicial review, was not expected to substitute its

own opinion in place of the one recorded by MPSC.

7. In fact, the Tribunal did not want to entertain the earlier Original Application filed by the petitioner. However purely by way of indulgence, it granted an opportunity to him to approach the MPSC for re-consideration of its decision. The MPSC has accordingly given fresh look to the matter and has taken note of the fact that the language used by the petitioner while expressing his protests on Twiter was obscene, outrages, unparliamentary. The MPSC has also taken into consideration the fact that the petitioner was seeking appointment in Government service and the conduct displaced by him was not something that was expected of a person aspiring to become a Government official. Considering the fresh decision taken by the MPSC, the Tribunal has refused to enter into the matter. It cannot be said that the decision of MPSC is such that no person of ordinary prudence would have taken such a decision. We find that the conclusion arrived at by the Tribunal is plausible. No jurisdictional error is committed by the Tribunal in arriving at said conclusion.

8. The reliance placed by Mr. Chalak on various judgments is completely misplaced. In **Commissioner of Police and Ors. Vs. Sandeep Kumar** 2011 (4) SCC 644, the issue was about the giving wrong declaration about the pendency of the criminal case and therefore, the decision has no application to the present case. The judgment of this Court in **State of Maharashtra and Ors. Vs. Balu s/o Gahininath Bahirwal** in Writ Petition No. 1994 of 2002 decided on

29.10.2014 merely follows the decision in **Sandeep Kumar** (supra) and therefore, the same also does not have any application to the facts of the present case. Mr. Chalak has also relied upon the order passed by the **Central Administration Tribunal in Ashwani Kumar Vs. Union of India and Anr.** O.A. No. 3991 of 2013 decided on 26.07.2017. Firstly, the said decision would not bind us. Even otherwise, the said order has no application to the present case. The Applicant in that case had indulged in malpractice of copying and on that allegation, ban of 10 years imposed on him, which was reduced to 3 years by the Tribunal. The facts of the case thus completely distinguishable. Mr. Chalak, also relied on the **Kulja Industries Limited Vs. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and Others** (2014) 14 SCC 731, which is on the point of blacklisting of a contractor in tender process. We failed to comprehend as to how the said judgment would have any remote application to the present case.

9. Consequently, we find that the petition is devoid of any merits, the same is dismissed without any order as to costs.

10. Rule is discharged.

(**SANDEEP V. MARNE**)
JUDGE

(**MANGESH S. PATIL**)
JUDGE