

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1838 OF 2022

Prashant Gulab Pawar & Ors. ...Petitioners

V/s.

The City & Industrial Development
Corporation of India & Anr. ...Respondents

Mr. Sunil S. Gosavi for the petitioners.

Mr. Roopadaksha Basu with Mr. Gaurav Jain i/by
M/s. M/s. The Law Point.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: JUNE 28, 2022

P.C.:

1. This is a writ petition at the instance of four (4) individuals. They had responded to an advertisement dated 5th April 2016 issued by the respondent no.1 inviting applications from eligible candidates for appointment on the post of Surveyor. The prayers in the writ petition are for a direction on the respondent no.1 to conduct a further proficiency test of the petitioners as part of the recruitment process, pursuant to the said advertisement, as well as for direction on the respondent no.1 to issue appointment orders to the petitioners on the post of Surveyor.

2. Mr. Gosavi, learned advocate appearing for the petitioners has invited our attention to an order dated 8th

March 2018 passed by a coordinate Bench of this Court in Writ Petition No. 4810 of 2017. Relying on such order, it has been contended that the advertisement indicated an erroneous qualification and despite the order dated 8th March 2018, neither any Government Resolution was issued with the correction as directed by the Court nor was the advertisement amended by the respondent no.1. It is also submitted that the petitioners were informed of their ineligibility to participate in the recruitment process by the letter dated 22nd October 2021 for which this writ petition was instituted on 19th December 2021. Referring to the earlier order of this Bench dated 21st June 2022 where a *prima facie* satisfaction was recorded that the petitioners had delayed their approach to the Court, Mr. Gosavi submits that there has been no delay on the part of the petitioners.

3. We have been informed by the learned advocate appearing for the respondent no.1 that the recruitment process was taken to its logical conclusion by appointments made on the post of Surveyor, in terms of the advertisement dated 5th April 2016, as far back as in 2017. He has also invited our attention to the letter dated 22nd October 2021 to contend that the select list which was prepared by the respondent no.1 was to remain valid for one year or preparation of a new list pursuant to further advertisement, whichever is earlier. Since the select list does not exist any further and that the advertisement has been given full effect without the petitioners having previously raised the issue of erroneous qualification being mentioned therein, the present writ petition does not deserve any interference.

4. We have heard learned advocates for the parties.
5. If indeed the advertisement mentioned an erroneous qualification and such error prejudiced the petitioners in having a proper consideration of their candidature for appointment on the post of Surveyor, we have failed to comprehend why they did not approach the Court before submission of any application. Having taken a chance of selection by submitting applications and upon the result of selection being not palatable to them, it is not open to the petitioners to institute a writ petition and renege the selection already made. If any authority is required, one may profitably refer to the decisions of the Supreme Court in **Om Prakash Shukla v. Akhilesh Kumar Shukla**, reported in AIR 1986 SC 1043, and **Madan Lal v. State of Jammu & Kashmir & Ors.** reported in AIR 1995 SC 1088, and a host of other decisions which have followed the aforesaid decisions.
6. Even otherwise, the contention that rectification of the qualification was not effected is misconceived. Writ Petition No. 4810 of 2017 was disposed of on 8th March 2018 and by that time, the appointments came to be made. There was no direction in such order to issue fresh advertisement with the correct qualification. We, therefore, reject the contention.
7. That apart, a select list having been prepared and appointments having been made therefrom, it worked itself out and did not subsist at the time the writ petition was presented. Having regard thereto, we are of the considered opinion that the letter dated 22nd October 2021 informing the petitioners of their eligibility did not stretch the period for

challenging the selection by approaching the Court four (4) years after the appointments had been made. We overrule the contention of Mr. Gosavi that the writ petition is not delayed.

8. Finally, we cannot overlook that none of the appointees on the post of Surveyor has been arrayed as respondents in this writ petition. In view of the decision of the Supreme Court in **Ranjan Kumar v. State of Bihar** reported in (2014) 16 SCC 187, the writ petition suffers from non-joinder of necessary parties and deserves outright rejection.

9. The writ petition is, accordingly, dismissed. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
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KULKARNI
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