

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

**WRIT PETITION NO. 659/2020**

(PARMANAND WALMIK PENDAM **VERSUS** STATE OF MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,  
 appearances, Court's orders of directions  
 and Registrar's orders.*

*Court's or Judge's order*

Shri P.R. Agrawal with Ms Aastha Sharma, counsel for the petitioner.  
 Shri D.P. Thakare, Additional Government Pleader for the R-1 & 2/State.  
 Shri A.Y. Kapgate, counsel for the R-3 to 5.

**CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.**

**DATE : AUGUST 26, 2022.**

Heard.

On 26.12.2019 an advertisement was issued seeking to recruit Shikshan Sevak (Secondary) for Classes 9 and 10 on honourarium for a period of three years. The qualification prescribed in the advertisement was a Degree from a recognized University either in Arts or a Degree wherein instructions in the concerned subject were obtained in the final year with minimum 50% marks. Alongwith this qualification it was necessary to obtain teaching qualification in the form of B.Ed. or any other equivalent qualification. It was also necessary to pass the Teachers Eligibility Test before passing the TAIT exam. The petitioner obtained degree of Bachelor of Arts in the second division. In the final year of that examination leading to the degree the petitioner secured 304 marks out of 500 marks. Besides that the petitioner also obtained B.Ed. degree in first division. In the TAIT examination he secured 105 marks. The petitioner however was not selected and instead a candidate who secured 101 marks in TAIT examination came to be selected and appointed. Being aggrieved by his non-selection the petitioner raised an objection on 20.01.2020. The said objection was turned down by observing that since the petitioner did not secure 50% marks while obtaining the Bachelor of Arts degree he was not eligible to be selected. The objection of the petitioner that he had secured more than 50% marks in the final year examination was not accepted. Being aggrieved the petitioner has challenged the decision of the Selection Committee in not holding him eligible for selection.

The learned counsel for the petitioner submitted that in the advertisement as issued it was clear that 50% marks were required only in the final year examination on the basis of which the degree was awarded. The advertisement did not require securing 50% marks on average for all three years of the said examination. The petitioner having secured 304 marks out of 500 marks in Part-III examination which was the final year of Bachelor of Arts course he was qualified for being selected. The petitioner had been held disqualified by wrongly interpreting the advertisement that 50% marks were required in all three years of the said course. The candidate selected had in fact lesser marks in the TAIT examination than the petitioner. Inviting attention to the conclusion of the Selection Committee dated 20.01.2020 it was submitted that the same was by misreading the advertisement. Attention was also invited to the Government Resolution dated 07.02.2019 in that regard and it was clear that the interpretation of the Selection Committee was contrary to what was provided for in the advertisement. It was thus submitted that the petitioner be declared to have been qualified and eligible for selection.

The learned counsel for the respondent nos.3 to 5 opposed the aforesaid submissions. According to him, the interpretation as put forth by the petitioner was contrary to the provisions of the Government Resolution dated 07.02.2019 and the advertisement dated 26.12.2019. On a plain reading of the same it was clear that 50% marks in aggregate were required for a candidate to be eligible for selection. Since the petitioner obtained 716 marks out of 1500 marks he had secured second division in the Bachelor of Arts degree examination. He therefore could not be held to be duly qualified. It was thus submitted that no interference was called for in the writ petition.

Having heard the learned counsel for the parties and having perused the Government Resolution dated 07.02.2019 as well as the advertisement dated 26.12.2019 it is clear that a candidate is required to either obtain a degree in the concerned subject from a recognized University or a degree with the concerned subject having been studied in the final year curriculum. The same has to be with 50% marks. On a plain reading of the relevant portion of the Government Resolution as well as the advertisement it is obvious that graduation has to be

with 50% marks in the aggregate. It is not the stipulation that 50% marks are required to be secured only in the final year examination. If the interpretation as canvassed by the petitioner is accepted it would mean that when the degree is obtained in the concerned subject from a recognized University it would not be necessary to secure 50% marks and that this requirement would apply only if a degree is obtained with the concerned subject being studied in the final year wherein 50% marks are required. This cannot be the intention. The requirement as prescribed in the advertisement has to be read as a whole and not in a piecemeal manner. The Selection Committee has rightly observed in its decision that what was required was securing 50% marks in the aggregate and not only in the final year examination. The interpretation as put by the Selection Committee is in accordance with the said Government Resolution and the advertisement. We therefore do not find any reason to take a view contrary to the one taken by the Selection Committee.

Admittedly the petitioner has not obtained his Bachelor of Arts degree by securing 50% marks in the aggregate. He has secured 716 marks out of 1500 marks which comes to about 47.73% which is less than the required 50% marks. We therefore find that the decision of the Selection Committee to hold the petitioner ineligible for consideration is the correct conclusion and the same does not call for any interference.

Consequently, the writ petition stands dismissed with no order as to costs.

**(URMILA JOSHI-PHALKE, J.)**

**(A. S. CHANDURKAR, J.)**

APTE