

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 2111 OF 2021

(Shri Sharad s/o Nilkanth Kubade Vs. The State of Maharashtra & Ors.)

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

Court's or Judge's order

Shri G.G. Bade, Advocate for the petitioner.
 Ms. S.S. Jachak, Assistant Government Pleader for respondent No.1/ State.
 Shri B.N. Mohta, Advocate for respondent Nos.2 and 3.

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

DATE : SEPTEMBER 28, 2022.

Heard.

The petitioner is aggrieved by the communication dated 2/7/2021 by which the petitioner's candidature for the post of 'Electrician' as advertised on 26/8/2019 by respondent Nos. 2 and 3 has been found to be not eligible. It is the case of the petitioner that in terms of the qualifications prescribed in the said advertisement, he was possessing the same and respondent Nos. 2 and 3 were not justified in treating the same as not equivalent. In that regard, the petitioner has sought to rely upon the diploma awarded by the Maharashtra Computer and Technical Education Board, Nagpur certifying that the petitioner had completed the diploma course as Electrician in the examinations held in July-2019. This diploma, being equivalent to the qualifications stipulated in the advertisement, was required to have been taken into consideration. The learned Counsel has sought to urge that it was not permissible for the said respondents to have travelled beyond the Recruitment Rules by holding the petitioner to be not eligible. The learned Counsel has placed reliance on the decision of the Hon'ble Supreme Court in *Dr. Sridip Chatterjee Vs. Dr. Gopa Chakraborty & Ors. [Civil Appeal No. 6102/2019]* decided on 6/8/2019] to substantiate his contention.

On the other hand, the learned Counsel for respondent Nos. 2 and 3 has relied upon the aforesaid advertisement and especially Clauses (3) and (6) of the instructions to the applicants along with Clause (15) thereof. According to him, the forms were to be submitted online and therefore full reference of the qualifications acquired was required to be mentioned. The fact that the

petitioner had obtained diploma as Electrician was not mentioned in the petitioner's application form. The only document referred to was the Certificate obtained from the N.C.T.V.T. Board. Since no reference to the diploma was made in the application form, the same could not have been referred to after the application form was rejected. Moreover, the army trade certificate dated 4/11/2016 relied upon by the petitioner was not found to be equivalent to the trades mentioned in the advertisement. The learned Counsel has placed reliance on the decision in *Bedanga Talukdar Vs. Saifudaullah Khan And Others [(2011) 12 SCC 85]*.

On hearing the learned Counsel for the parties, we find that as per Clauses (3), (6) and (15) of the instructions to the applicants, all requisite qualifications were to be mentioned in the application form. Undisputedly, the qualification on which the petitioner now seeks to rely upon was not mentioned in the application form. Respondent Nos. 2 and 3 therefore were not obliged to consider that diploma for determining the petitioner's eligibility. In terms of the advertisement itself, the qualifications submitted by the petitioner were not found to be in consonance with the same. It is also seen that the army trade certificate relied upon by the petitioner was not found to be equivalent to the trades mentioned in the advertisement. This aspect is not under challenge. As held by the Hon'ble Supreme Court in *Bedanga Talukdar (supra)*, the selection process has to be conducted strictly in accordance with the stipulations mentioned in the advertisement. Respondent Nos. 2 and 3 while rejecting the petitioner's candidature cannot be said to have acted in any arbitrary manner.

In that view of the matter, we do not find any reason to interfere in writ jurisdiction. The Writ Petition is therefore dismissed with no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A. S. CHANDURKAR, J.)

SUMIT