

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 3827 OF 2020

Manisha D/o Appasaheb Chemate
@ Manisha W/o Rajendra Kadus,
Age 28 years, Occ.Household,
R/o 640, Lakar Galli, Bhingar,
Ahmednagar,
Tal. & District Ahmednagar.

... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Co-operation Department,
Mantralaya, Mumbai - 32.
2. The Divisional Joint Registrar,
Co-operative Societies, Nashik,
Tal. & District Nashik.
3. The District Deputy Registrar,
Co-operative Societies, Ahmednagar.
4. The Chairman of the Inquiry Committee and
The then Divisional Joint Registrar,
Co-operative Societies, Nashik,
Division, Nashik.
5. The Member of the Inquiry Committee and
Assistant Registrar,
Co-operative Societies, Ahmednagar,
Tal. & District Ahmednagar.
6. The Member of the Inquiry Committee and
District Deputy Registrar,
Co-operative Societies, Ahmednagar,
Tal. & District Ahmednagar.

7. The Ahmednagar District Central
Co-operative Bank,
Through its General Manager,
Station Road, Ahmednagar,
Tal. & District Ahmednagar.

... Respondents

...

Mr. S. S. Thombre, Advocate for Petitioner.

Mr. S. K. Tambe, AGP for Respondent Nos.1 to 6.

Mr. V. R. Dhorde, Advocate for respondent No.7.

...

CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

RESERVED ON : 31st March, 2023.

PRONOUNCED ON : 26th April, 2023.

JUDGMENT : (Per Sanjay A. Deshmukh, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. By this Writ Petition, the Petitioner has challenged the order passed by Respondent Nos.2 and 7 i.e. inquiry report dated 9th December, 2019 and consequential letter sent to the Petitioner dated 16th December, 2019 informing that she is not selected as a clerk.

3. Respondent No.7 – Bank proposed to fill up the vacancies in the cadre of Clerks, Junior Officers and Officers in the Managerial level on its establishment. The Bank engaged the National Institute for Banking Education and Research (NIBER) as an agency to hold examination for the recruitment process. The Petitioner submitted her application for the post of clerk and she was held eligible for that examination. In the selection process, she was selected after the written examination and the interview. The selection list was drawn up.

4. Some reputed persons / social workers and other persons complained about the selection process alleging the nepotism, favouritism etc. in the said examinations. Accordingly, the Joint Registrar, Co-operative Societies, Aurangabad had appointed a 4 members inquiry committee, headed by an officer of the rank of the District Deputy Registrar (DDR) to enquire into the complaints. The Committee held enquiry and submitted its report on 17th January, 2018, observing the irregularities, illegalities etc. in the recruitment process. The Joint Registrar accepted the report and cancelled the select lists of the Junior Officers, Clerks etc.

5. Respondent No.7 – Bank filed Writ Petition No.8811 of

2018. The Division Bench of this Court (Coram: S. V. Gangapurwala and R. G. Avachat, JJ.) vide judgment dated 5th April, 2019 delivered in Writ Petition No.8811 of 2018 (***Ahmednagar District Central Co-operative Bank Ltd. Vs. The State of Maharashtra and others***) and other connected Writ Petitions, held that the decision of the said committee is not legal and correct. It cancelled and set-aside the decision and directed the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik, to again scrutinise the entire record of the candidates and take a final decision about their selection process within a period of six months.

6. Respondent No.2 (the Divisional Joint Registrar) constituted a fresh inquiry committee under the chairmanship of Respondent No.4. Respondent Nos.5 and 6 were the members of that committee. The committee gave interim report vide its order dated 17th July, 2019. All the question papers and answer sheets were forwarded for forensic report. On 25th September, 2019, the Divisional Joint Registrar, Co-operative Societies, Nashik, on the basis of the report of the Commissioner of Co-operation and the Registrar of the Co-operative Societies dated 18th September, 2019, appointed an expert committee to examine the answer sheets and other documents. Accordingly, all the original documents were

forwarded to the forensic expert, who is a retired State Examiner of documents C.I.D. Maharashtra State, Mumbai. The expert has given his written opinion on 14th November, 2019. On 9th December, 2019, Respondent Nos.4 to 6 submitted final report to Respondent No.2. On the basis of that report, except the Petitioner and other 3 candidates, all other candidates were held selected and their appointment orders were issued by letter dated 16th December, 2019.

7. Feeling aggrieved by the said letter, the Petitioner has filed this Writ Petition and prayed for quashing and setting aside the letter dated 16th December, 2019.

8. Respondent Nos.2 to 6 have objected the contentions raised by the Petitioner. It is their contention that the signature of the Petitioner is not matching with her admitted signature and therefore, considering the differences in the signature, a right decision was taken by Respondent No.2 and the Petitioner was excluded from the list of selected candidates. Respondent Nos.2 to 6 have relied upon the report of the expert "Exhibit R-1" (Page No.248).

9. Respondent No.7 has also objected this Writ Petition on the ground that the report of the forensic expert regarding signature of

the Petitioner on the admitted document and disputed document, is not matching. Relying upon that report, appointment order was not issued to the Petitioner.

10. The learned Advocate for the Petitioner submitted that the report of the handwriting expert is not properly appreciated by the Respondents. The opinion of expert, which he pointed out, is as under:-

“B) Having carefully examined the questioned signature in English appeared on original Answer Sheet paper No. 12186 dated 13/08/2017 of candidate “**Kudus Manisha Rajendra**”, seat No. 2401642 for the Exam. of Clerical post at Ahmednagar District Central co-op Bank Ltd.

I am of opinion that I am unable to express any definite opinion as regard the identity or non-identity of the signature of “**Kudus Manisha Rajendra**” in English marked Q-1 with the Admitted signature of “**Kudus Manisha Rajendra**” in English marked A-3.”

11. The learned Advocate for the Petitioner submitted that there is no clear cut opinion of handwriting expert that the signatures are not that of the Petitioner in the light of the admitted and disputed documents. Thus, the decision of the authority is not legal and justifiable for not finalizing the name of the Petitioner as selected candidate. The learned Advocate for the Petitioner pointed out that

the reasons given by Respondent No.4 about delisting the Petitioner, are not legal and sustainable. He lastly prayed to allow this Writ Petition.

12. The learned AGP submitted that the observations of the handwriting expert at paragraph 'V' are decisive, which shows that the signature is not that of the writer of the natural document signed by the Petitioner. Paragraph 'V' out of the opinion of the handwriting expert, is reproduced hereunder:-

“V) Having carefully examined these documents, I am of the opinion that the questioned signature of **“Kudus Manisha Rajendra”** in English marked Q-1 is not written by the writer of Admitted (Natural) signatures of **“Kudus Manisha Rajendra”** in English marked A-1 to A-2.”

13. The learned AGP submitted that the signature of the Petitioner on her answer-sheet is doubtful and the decision of Respondents is not illegal. He lastly prayed to dismiss this Writ Petition.

14. The admitted fact is that the Petitioner's name was listed in the select list for the post of Clerk. The only decisive document is the opinion of the handwriting expert about the signatures of the Petitioner.

15. The expert finally opined that, 'I am of opinion that I am unable to express any definite opinion as regard the identity or non-identity of the signature of the Petitioner about her admitted signature and the disputed signature'. It is well settled that the expert's opinion must be certain and definite to establish that the signatures of the Petitioner on the disputed and the admitted documents, are different. However, there is no such conclusive opinion of the handwriting expert. The opinion of expert must be supported by reasons. The expert has not given the reasons while giving opinion that "Having carefully examined these documents, I am of the opinion that the questioned signature of "**Kudus Manisha Rajendra**" in English marked Q-1 is not written by the writer of Admitted (Natural) signatures of "**Kudus Manisha Rajendra**" in English marked A-1 to A-2." Thus, the opinion of the expert is not useful to prove the alleged false signature i.e. legal mischief of the Petitioner. Respondent No.2 has failed to consider these factual aspects in it's proper perspective and wrongly relied upon the opinion of the handwriting expert by misinterpreting the same. Therefore, the said decision of the authority sent to the Petitioner by it's letter dated 16th December, 2019, deserves to be quashed and set aside.

16. For the reasons discussed above, the arguments of the learned AGP is not acceptable in this regard. This Writ Petition deserves to be allowed. Hence, the following order:-

ORDER

- I. The Writ Petition is allowed.
- II. The inquiry report dated 9th December, 2019 and the consequential order passed by letter dated 16th December, 2019 issued by Respondent No.2, to the extent of the Petitioner, is quashed and set aside.
- III. Respondent No.2 is directed to direct Respondent No.7 to issue an appointment order in favour of the Petitioner for the post of Clerk.
- IV. No order as to costs.

17. Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE J.]