

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9549 OF 2022**

Shri Arvind Mahadeo Dhekane & Ors.Petitioners

V/s.

Commissioner of Sugars,
Maharashtra State, Sakhar Sankul Pune & Ors ...Respondents

**WITH
WRIT PETITION NO.9636 OF 2022**

Shri Sharad Vittal Phatak & Ors.Petitioners

V/s.

Commissioner of Sugars,
Maharashtra State, Sakhar Sankul Pune & Ors ...Respondents

Mr. Kishor Patil i/b Mr. Ajit Kenjale a/w Mr. Sai R Kadam for Petitioners.
Ms K. N. Solunke, AGP for State Respondent.
Mr. Sanket Magre a/w Ms Varsha Bhosle i/b Mahadik & Associates for
Respondent No.2.

**WITH
WRIT PETITION NO.9583 OF 2022**

Shri Jayant Ashokrao Patil & Ors.Petitioners

V/s.

State of Maharashtra Through its Secretary
Co-operation Marketing & Textile Dept & Anr ...Respondents

**WITH
WRIT PETITION NO.9584 OF 2022**

Shri Sachin Chandrakant Zagade & Anr ...Petitioners

V/s.

State of Maharashtra & Anr ...Respondents

**WITH
WRIT PETITION ST.NO.22880 OF 2022**

Satappa Bandopant Charpale & Anr ...Petitioners

V/s.

State of Maharashtra Thr. Sec. Co-op & Anr ...Respondents

Ms Pavitra Manesh for Petitioners.

Ms K. N. Solunke, AGP for State Respondent.

Mr. Sanket Magre for Respondent No.2 in WP/9583 of 2022.

**WITH
WRIT PETITION NO.10856 OF 2022**

Shri Kalidas Dashrath Nikam & Anr. ...Petitioners

V/s.

The Commissioner of Sugars,

State of Maharashtra, Pune & Ors. ...Respondents

Mr. Prasanna Kishor Shahane i/b Mr. Milind Deshmukh for Petitioners.

Ms K. N. Solunke, AGP for Respondent State.

**CORAM : K.R. SHRIRAM &
RAJESH S. PATIL JJ**

**DATED : 10th APRIL 2023,
11th APRIL 2023 &
12th APRIL 2023**

PC. :

**WRIT PETITION NO.9549 OF 2022
WITH
WRIT PETITION NO.9584 OF 2022
WITH
WRIT PETITION NO.9636 OF 2022
WITH
WRIT PETITION NO.10856 OF 2022
WITH
WRIT PETITION ST.NO.22880 OF 2022**

1 Petitioners are, *interalia*, impugning the disqualification of petitioners from appearing in the exam for the empanelment of Managing Directors in sugar factories. In the alternative petitioners are seeking declaration that

petitioners being the Head of the Departments are entitled to appear for exam of empanelment for the posts of Managing Director at sugar factories.

2 On 6th April 2023, we had, after hearing Mr. Patil and other counsel who had appeared that day in their respective petitions informed them that we find no merit in the petitions and we were inclined to dismiss the petitions. Mr. Patil and others requested the court not to dismiss the petition because that would then affect the carrier of petitioners and requested the matter be stood over to today so that petitioners could withdraw the petition. Today, Mr. Patil and others state their instructions are not to withdraw the petition and court could pass any order as it deems fit. Orders passed on 6th April 2023 read as under:

“WRIT PETITION NO.9549 OF 2022

1 After we considered the Petition and expressed our view to Mr.Patil that we are inclined to dismiss the Petition, Mr.Patil requested the matter be adjourned to 10th April 2023 so that he can take instructions to withdraw the Petition.

2 Stand over to 10th April 2023.

WRIT PETITION NO.9583 OF 2022

1 After we considered the Petition and we expressed our view to Ms.Manesh that Petitioner Nos.1 to 8 and 10 and 11 do not have the requisite qualifications, and that we are inclined to dismiss the Petition as regards those Petitioners, Ms.Manesh requested the matter be adjourned to 10th April 2023 so that she can take instructions to withdraw the Petition.

2 As regards Petitioner No.9 Pandurang Vishwanath Bagal, the online form filled by him indicates he might meet the required qualifications. As regards the experience is concerned, Ms.Manesh is relying upon a letter dated 16th June 2022, copy whereof is annexed at Page No.149 of the Petition. Mr.Patel requested that case of this Petitioner be heard separately so that he could consider the affidavit-in-reply and also assist the Court.

3 This Petition only to the extent of the case of Petitioner No.9

be listed on 10th April 2023.

**ALONGWITH
WRIT PETITION NO.9584 OF 2022**

1 After we considered the Petition and expressed our view to Ms.Manesh that we are inclined to dismiss the Petition, Ms.Manesh requested the matter be adjourned to 10th April 2023 so that she can take instructions to withdraw the Petition.

2 Stand over to 10th April 2023.

**ALONGWITH
WRIT PETITION STAMP NO.22880 OF 2022**

1 After we considered the Petition and expressed our view to Ms.Manesh that we are inclined to dismiss the Petition, Ms.Manesh requested the matter be adjourned to 10th April 2023 so that she can take instructions to withdraw the Petition.

2 Stand over to 10th April 2023.

**ALONGWITH
WRIT PETITION NO.9636 OF 2022**

1 After we considered the Petition and expressed our view that none of the Petitioners qualifies, Mr.Kenjale requested the matter be adjourned to 10th April 2023 for withdrawal so that he can take instructions from 21 Petitioners.

2 Stand over to 10th April 2023.

**ALONGWITH
WRIT PETITION NO.10856 OF 2022**

1 After we considered the Petition and expressed our view to Mr.Deshmukh that we are inclined to dismiss the Petition, Mr.Deshmukh requested the matter be adjourned to 10th April 2023 so that he can take instructions to withdraw the Petition.

2 Stand over to 10th April 2023.”

On 10th April 2023 , no new submissions were made by anyone. Ms Manesh, however, submitted that in the case of Writ Petition St No.22880 of 2022, both candidates were holding post graduate degrees. Petitioner No.1 was holdng MBA in HR and Marketing from Shivaji University and Petitioner No.2 was holding MBA in Finance and Marketing. Therefore, the

order passed on 6th April 2023 in this petition was not correct. Hence, paragraph 1 of the order dated 6th April 2023 in Writ Petition St. No.22880 of 2022 be deleted and paragraph 2 be renumbered as paragraph 1.

3 On 6th April 2023, Mr. Patil in Writ Petition No.9549 of 2022 submitted that the Commissioner of Sugars, Maharashtra State, Pune, had issued an advertisement dated 31st May 2022 inviting applications from candidates for the posts of Managing Directors for Co-operative Sugar Factories in Maharashtra. To the advertisement, was also annexed the number of candidates to be selected, age limit, pay scale as well as, minimum educational qualification and experience required. The minimum educational qualification and experience required reads as under:

“5) Minimum education qualification and experience:-

5.1) Post graduate in Agriculture.

5.2) M.Com.

5.3) B. E. (Mechanical / Chemical / Electrical)

5.4) M.Sc. (Wine brewing and Alcohol Technology)

5.5) Chartered Accountant.

5.6) ICWA.

5.7) Company Secretary.

5.8) MBA (Finance) MBA(HR)

5.9) For candidates, who are working or were working as Head of the Departments in sugar factories, at least a degree from recognized university necessary, candidates, presently working for minimum 5 years in sugar factories should submit certificates from concerned Managing Director and concerned Regional Joint Director (Sugar) on the letter heads of the Managing Director and Regional Joint Director (Sugar).”

This English translation is provided by petitioners' advocate.

Mr. Patil, at the outset, agreed that none of the three petitioners have the minimum educational qualification as prescribed in clauses 5.1 to 5.8. All others appearing in the other petitions were also candid in admitting

(except petitioners in Writ Petition St. No.22880 of 2022 and in the case of Petitioner No.9 in WP/9583/2022) that none of the petitioners had the requisite minimum educational qualification as prescribed in clauses 5.1 to 5.8.

We have to note, other than Mr. Patil in Writ Petition No.9549 of 2022, none of the other counsels made any submissions. We however, proceed on the basis that they adopted Mr. Patil's submissions.

4 On 6th April 2023 Mr. Patil (in Writ Petition No.9549 of 2022) had submitted that under clause 5.9, if the candidate has been working as Head of Department in sugar factories, any degree from a recognised university is enough, as long as the candidate satisfies that he has graduated from a recognised university and has worked for minimum 5 years as Head of the Departments in sugar factories and it could be any department including being a security man and he should be made Managing Director of a Sugar Factory in Maharashtra. According to him Clauses 5.1 to 5.8 are irrelevant for such a candidate. The qualification and present post held by them read as under:

WRIT PETITION NO.9549 OF 2022

SR. NO.	NAMES	QUALIFICATION	POST & WORKING AS
1	Arvind Mahadeo Dhekane	B.SC	<u>Safety Officer</u> at Ajinkyatara Sahakari Sakhar Kharkhana Ltd.
2	Sandeep Bhimrao Patil	B.A.	<u>Safety Officer</u> at Sahyadri Sahakari Sakhar Kharkhana Ltd.
3	Virendra	B.A.	<u>Labour Officer</u> at Krantigrani Dr. G. D.

	Vikamsinh Deshmukh		Bapu Lad, Sahakari Sakhar Kharkhana Ltd.
<u>WRIT PETITION NO.9636 OF 2022</u>			
1	Sharad Vitthal Phatak	B.Sc	<u>Purchase Officer</u> at Krantigrani Dr. G. D. Bapu Lad, Sahakari Sakhar Kharkhana Ltd.
2	Sagar Bandopant Patil	B.Sc., M.Sc	<u>Environment Officer</u>
3	Manoj Ashok Naikwadi	B.Sc.	<u>Environment Officer</u> at Sant Tukaram Sahakari Sakhar Kharkhana Ltd.
4	Kapil Bhausahab Thorat	B.Sc.	<u>Environment Officer</u> and <u>Safety Officer</u> at Bhimashankar Sahakari Sakhar Kharkhana Ltd.
5	Nandkumar Vitthal Suryawanshi	B.Sc., M.Sc.	<u>Pollution Controlling Officer</u> at Dr. Patangrao Kadam Sonhira Sahakari Sakhar Kharkhana Ltd.
6	Sachin Laxmikant Kulkarni	B.A., M.A.	<u>Purchase Officer</u> at Matoshri Laxmi Shugar Co-Generation Industries Ltd.
7	Nitin Ramchandra Patil	B.A., M.A.	<u>Purchase Officer</u> at Dr. Patangrao Kadam Sonhira Sahakari Sakhar Kharkhana Ltd
8	Mahadevrao Vamanrao Kadam	B.Com.	<u>Purchase Officer</u> at Okmangal Mauli Industries Ltd.
9	Pandurang Mahadev Nikam	B.Com.	<u>EDP Manager</u> at Dr. Patangrao Kadam Sonhira Sahakari Sakhar Kharkhana Ltd.
10	Rajendra Shyamrao Patil	B.Sc., M.Sc.	<u>Environmental Engineer</u> at Rajaram Bapu Patil Sahakari Sakhar Kharkhana Ltd
11	Anirudha Bhupal Sharma	B.Sc., M.Sc.	<u>Senior Manager Environment</u> at Shri Sai Priya Sugars Ltd.
12	Hemant Uddhav Bavalekar	B. Com.	<u>Environment Officer</u> at Udagiri Sugar And Power Ltd.
13	Saif Dilawar Naikwadi	B.Com.	<u>Environmental Engineer</u> at Shree Chhatrapati Shahu Sahakari Sakhar Kharkhana Ltd.
14	Ashok Shankar Suryawanshi	B.Sc., M.Sc.	<u>Environmental Manager</u> , at SGZ & SGA Sugars (JV) Ltd. Turchi
15	Jitendra Vilasrao Mane	B.Sc., MEM	<u>Environment Manager</u> at Karmayogi Shankarrao Patil Sahakari Sakhar

			Kharkhana Ltd.
16	Mr. Satyajeet Bhila Desale	B.Sc., M.Sc.	<u>Environment Officer</u> at Aayan Multitrade LLP Unit No.1
17	Rajendrakumar Krishnaji Ghophane	B.Sc.	<u>EDP Manager</u> , at Daung Sugar Pvt Ltd.
18	Santosh Vitthalrao Gavhane	B.Sc., M.Sc.	<u>Environmental Officer</u> at Vitthalrao Shinde Sahakari Sakhar Kharkhana Ltd.
19	Vikas Anandrao Patil	B.E.	<u>Civil Engineer</u> at Raosahebdada Pawar Ghodganga Sahakari Sakhar Kharkhana Ltd.
20	Sanjay Shankar Yadav	B.Sc.	<u>Distillery Incharge</u> at Raosahebdada Pawar Ghodganga Sahakari Sakhar Kharkhana Ltd.
21	Prakash Sakharam Patil	B.Sc.	<u>Computer Incharge</u> , at Vishwasrao Naik Sahakari Sakhar Kharkhana Ltd.
<u>WRIT PETITION NO.9584 OF 2022</u>			
1	Sachind Chandrakant Zagade	B.Sc.	<u>Distillery Manager</u> at Indian Sugar Manufacturing Company
2	Ayubkhan Sherkhan Pathan	B.Sc.	<u>General Manager</u> at Dharashiv Sugar Factory Ltd.
<u>WRIT PETITION NO.10856 OF 2022</u>			
1	Kalidas Dashrath Nikam	B.A.	<u>HR/Administrative Officer</u> at Shree Someshwar Sahakari Sakhar Kharkhana Ltd.
2	Deepak Popatrao Nimbalkar	B.A.	<u>Labour Officer</u> at Shree Someshwar Sahakari Sakhar Kharkhana Ltd.
<u>WRIT PETITION ST NO.22880 OF 2022</u>			
1	Satappa Bandopant Charapale	B.Sc.; MBA	<u>Canal Development Officer</u> at Shree Bhogawati Sahakari Sakhar Kharkhana Ltd.
2	Sagar Bhimrao Patil	B.Com., MBA	<u>Marketing Manager</u> , at Shree Bhogawati Sahakari Sakhar Kharkhana Ltd.
<u>WRIT PETITION NO.9583 OF 2022</u>			
1	Jayant	B.Sc.	<u>Distillery Manager</u> at Sharayu Agro

	Ashokrao Patil		Industries
2	Dhairyasheel Vijaysingh Ranaware	B.Sc.	<u>Distillery Manager</u> at Sahakra Maharshi Shakarrao Mohite Patil Sakhar Karkhana Ltd.
3	Udaysingh Sureschandra Bhosale	B.Sc.	<u>Distillery Manager</u> at Kisanveer Satara Sahakari Sakhar Karkhana
4	Sanjay Tanaji Pawar	B.Sc.	<u>Distillery Manager</u> at Swaraj Green Power and Fuel Ltd.
5	Yuvraj Bapusaheb Gaikwad	B.Sc.	<u>Distillery Manager</u> at Vishwasrao Naik Sahakar Sakhar Karkhana
6	Ramchandra Sampat Shewale	B.Sc.	<u>Distillery Manager</u> at D. M. Shreenath Mhaskoba Sakhar Karkhana Ltd.
7	Nandkumar Sukhdeo Jagdale	B.Sc.	<u>Distillery Manager</u> at Udagiri Sugar & Power Ltd.
8	Dinesh Balkrushna Chavan	B.Sc.	<u>Distillery Manager</u> at Ajinkyatara Sahakari Sakhar Karkhana Ltd.
9	Pandurang Vishwanath Bagal	B.Sc.	<u>Distillery Manager</u> at Vithoba Shinde Sahakari Sakhar Karkhana
10	Mahesh Vasantrao Nimbalkar	B.Sc.	<u>Distillery Manager</u> at Utopian Suars Ltd.
11	Pravin Kumar Shivajirao Kale	B. Sc.	<u>Distillery Manager</u> at Daund Sugar Pvt Ltd.

We shudder to think that anyone without having the requisite qualification mentioned in clauses 5.1 to 5.8 and with the kind of present job profile mentioned above could become Managing Director of a Sugar Factory running under the Maharashtra Co-operative Societies Act. It will not be in the interest of the sugar factory. We must keep in mind the post applied for is not the same as they are working currently or a step above but is that of Managing Director. The Numero Uno in the sugar factory who will be answerable and responsible to the owners, workmen, farmers and

State Government. In our view, the submission of Mr. Patil, therefore, cannot be accepted.

5 Moreover the advertisement says “Minimum Education Qualifications AND Experience”. It is ‘AND’ and not ‘OR’ or either. The only permissible way to read the criteria would be to lay emphasis on “AND”. It cannot be read down to “OR”. Further, if we accept Mr. Patil’s submission that clause 5.9 is distinct and separate from clauses 5.1 to 5.8, that would mean those who have the qualification mentioned in clauses 5.1 to 5.8 could walk out of college/institution and straight away become qualified to be the Managing Director of a Sugar Factory. Moreover, it would mean anyone who has been for 5 years Head of even security department and he holds a B.A. in Music or Fine Arts can become the Managing Director of a Sugar Factory. Certainly, that would not have been the intention of Commissioner of Sugars when he released the advertisement inviting the application. The whole clause 5 in respect of the minimum educational qualification AND experience has to be read in its entirety. The said clause does not say minimum educational qualification OR experience. It says minimum educational qualification AND experience. We cannot sacrifice one for the other.

6 Mr. Patil also submitted that the grounds for rejection of petitioners’ application was based only on Indulkar Committee report. That is not factually correct. As stated in the affidavit of one Mangesh Bhagwat Titkare affirmed on 23rd March 2023, reason for disqualification includes “As per advertisement dated 30th May 2022 published for empanelment of

Managing Directors qualification of petitioners is not fulfilled.” Therefore, this submission of Mr. Patil also has to be rejected.

7 In any event, in our view petitioners have to show that they qualify for the post, which all petitioners (except petitioners in Writ Petition St No.22880 of 2022 and petitioner No.9 in Writ Petition No.9583 of 2022) have failed. As noted earlier, counsel have candidly admitted that petitioners do not have the requisite minimum qualification mentioned in clauses 5.1 to 5.8. Moreover, as noted earlier they do not have requisite experience.

8 Therefore, all Petitions (except Writ Petition St No.22880 of 2022 and in the case of Petitioner No. 9 in Writ Petition No. 9583 of 2022) dismissed with costs.

9 Each Petitioner to pay cost of Rs.50,000/- to the Government of Maharashtra. Ms Solunke states they shall inform the advocate for petitioner the details of the account to which the amount should be remitted. This amount shall be paid within four weeks from today. If not paid, State may recover from petitioners by either directing the employer of petitioners to deduct it from the salary of petitioners and pay over to State or recover it from petitioners as arrears of land revenue.

WRIT PETITION NO.9583 OF 2022

10 As regards petitioner no.9 in Writ Petition No. 9583 of 2022 is concerned, Ms Solunke states that in their affidavit in reply filed through Mangesh Titkare affirmed on 10th April 2023, it is stated that alongwith application the said petitioner did not upload his MBA certificate. Ms

Manesh states that copy of this affidavit has been given to her only in court just now and she has to take instructions. At the same time, Ms Solunke states even in 2015 this petitioner had applied for the job, he was an MBA then and he was short listed and even called for interview and, therefore, it is rather strange for respondents to doubt whether this petitioner was really holding the MBA degree. At the same time, Ms Manesh states she will produce the MBA degree alongwith a short affidavit.

To consider the case of this petitioner no.9, stand over to 17th April 2023.

WRIT PETITION ST NO.22880 OF 2022

11 At the joint request of counsels stand over to 17th April 2023.

11th APRIL 2023

12 At 11.00 a.m. Ms Manesh mentioned the matter (Writ Petition No.9583 of 2022) stood over to 17th April 2023 at her request to consider the case of Petitioner No.9 Pandurang Vishwanath Bagal and requested for circulation for 2.30 p.m. which was granted.

13 Ms Manesh stated that her instructions are that Mr. Pandurang Vishwanath Bagal (petitioner no.9), who has stated in the petition to be an MBA graduate, is in reality not an MBA graduate and he has done only First Year of MBA. Ms Solunke states if that is the position, then the statement that was made yesterday in court that the same gentleman had applied for job in 2015 based on the MBA certificate or that he was called for an interview, was an incorrect statement.

Ms Manesh states that the said statement was made on instructions and it was not her fault.

14 In view of what we have recorded above, Writ Petition No. 9583 of 2022 would stand dismissed as regards petitioner no.9 as well.

15 We should note that in paragraph 3.9 of the petition it is stated that the said petitioner no.9 Mr. Pandurang Vishwanath Bagal is BSC, MBA. The said Bagal has signed the petition. Therefore, it is a false statement made on oath to the court. Notice, returnable on 15th June 2023 be issued to the said petitioner no.9 Mr. Pandurang Vishwanath Bagal as to why perjury proceedings should not be initiated against him.

16 As per the liberty granted vide order dated 3rd April 2023 (by an alternative Bench as this Bench was not available) all petitioners had given the exam on 5th April 2023. The concerned Authority not to declare the results of any of the Petitioners, but treat all of them as not having written the exam.

12th APRIL 2023

17 Ms Manesh and Mr. Kenjale informed the court that some of the petitioners as per the list below wish to withdraw their petition.

SR. NO.	PETITION NO.	NAME OF PETITIONER
1	WP No. 9583 of 2022	Petitioner No.2 – Dhairyasheel Vijaysingh Ranaware Petitioner No.4 – Sanjay Tanaji Pawar Petitioner No.9 – Pandurang Vishwanath Bagal Petitioner No.10 – Mahesh Vasantrao Nimbalkar Petitioner No.11 – Pravin Kumar Shivajirao Kale
2	WP No. 9584 of 2022	Petitioner No.2 – Ayubkhan Sherkhan Pathan

3	WP No. 9636 of 2022	Petitioner No.3 – Manoj Ashok Naikawadi Petitioner No.9 – Pandurang Mahadeo Nikam Petitioner No.11 – Anirudh Bhupal Sharama Petitioner No.12 – Hemant Uddhav Bavalekar Petitioner No.13 – Saif Dilawar Nikawadi Petitioner No.14 – Ashok Shankar Suryawanshi Petitioner No.18 – Santosh Vitthalrao Gavhane Petitioner No.21 – Prakash Sakharam Patil
4	WP No. 9549 of 2022	Petitioner No.2 – Sandeep Bhimrao Patil

18 We will note from the list that all petitioners do not wish to withdraw but only some. Having filed the petitions together unless all of them in the respective petitions wish to withdraw, we are not inclined to grant liberty to only some of them to withdraw. Leave to withdraw the petition by select petitioners rejected.

19 Therefore, the order as stated in paragraphs (8), (9), (14) and (15) above, would stand unaltered.

(RAJESH S PATIL, J.)

(K.R. SHRIRAM, J.)