

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

Writ Petition No.4189 of 2023

Shri Ashish S/o Chintaman Diwate

Versus

The State of Maharashtra and others

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

Court's or Judge's order

Shri S.S. Shingane, Counsel for Petitioner.

Smt. S.S. Jachak, Assistant Government Pleader for Respondent No.1.

Shri M.P. Rajkondwar, Counsel for Respondent No.2.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 26th JULY, 2023.

1. Heard.
2. The petitioner is aggrieved by his non-selection for the post of Assistant Engineer (Transmission) from the Other Backward Class category pursuant to the advertisement dated 4-5-2022 issued by the Maharashtra State Electricity Transmission Company Limited- respondent No.2. The petitioner having secured 63.55 marks in the online examination held on 29-12-2022 has challenged the selection of the respondent No.3 who has secured 59.14 marks.
3. Shri S.S. Shingane, learned counsel for the petitioner, invited attention to the Employment Advertisement No.04/2022 and especially Clause 7 thereof to contend that the online test was to be conducted by the respondent No.2 which included the test of Marathi language. As per Clause 13.13, it was prescribed that the candidates selected and not possessing knowledge of Marathi would have to pass departmental Marathi language examination within a period of three years from joining the Company. The petitioner secured zero marks in Marathi language which carried maximum marks of 10. It is urged on behalf of the petitioner that in view of Clause 13.13 of the Employment Advertisement since a candidate not possessing knowledge of Marathi could pass such departmental examination after joining the Company, the candidature of the petitioner was not liable to be rejected on the ground that he secured zero marks in Marathi language. Since the respondent No.3 had secured less marks than the

petitioner, his selection was illegal. The learned counsel for the petitioner placed reliance on the decision of the Hon'ble Supreme Court in *Sureshkumar Lalitkumar Patel and others Versus State of Gujarat and others* [2023 DGLS(SC) 174].

4. Shri S.P. Dharmadhikari, learned Senior Advocate appearing for the respondent No.2, on the other hand, submitted that as per Clause 13.12, it was necessary for a candidate to have elementary knowledge of Marathi language. Under the said Clause, certificate of the Secondary School Certificate Examination Board or of a recognized University having passed such examination with Marathi language was mandatory. It was also prescribed that in absence of such certificate, a candidate was required to produce a certificate stating that a candidate could read, write and speak Marathi language fluently. Despite producing such certificate, the petitioner did not attempt to answer any question in Marathi language test and was thus awarded zero marks. He submitted that all the candidates who secured zero marks in Marathi language test were held ineligible and their names were not placed in the final provisional select list. It was submitted that there were various candidates who had secured more marks than the petitioner in aggregate but had secured zero mark in Marathi language test and they had not been selected. The non-selection of the petitioner was not arbitrary. Since under the advertisement it was necessary for a candidate to be a domicile of the State of Maharashtra, the respondent No.2 had insisted upon elementary knowledge of Marathi language. Hence, there was no reason to grant any relief to the petitioner.

5. Having heard the learned counsel for the parties and having perused the relevant terms of the Employment Advertisement, we find that besides being a domicile of the State of Maharashtra, a candidate was required to possess basic elementary knowledge of the subject of Marathi. Clause 13.12 of the advertisement is clear in that regard. This Clause is independent of Clause 13.13, which requires knowledge of Marathi knowledge to be desirable. Those candidates who could read, write and speak Marathi language but not having sufficient knowledge thereof were required to pass the departmental Marathi language examination. It is with this requirement that the respondent

No.2 did not consider those candidates who secured zero marks in Marathi language test. The petitioner did not attempt a single question of Marathi language test. The other candidates who also secured zero marks in Marathi language test but were more meritorious having higher aggregate marks than the petitioner have also not been selected. Thus all candidates securing zero marks in Marathi language test have been excluded from consideration. It is not the case of the petitioner that any other candidate who has secured zero marks in Marathi language test has been selected.

6. In view of aforesaid, we do not find that the candidature of the petitioner has been arbitrarily rejected. His candidature has been considered in accordance with the employment notice. Since the petitioner did not disclose any knowledge of Marathi in the online examination, his candidature was not considered. The decision relied upon by the learned counsel for the petitioner does not support his contention in these facts

7. The writ petition is thus dismissed with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

LANJEWAR