

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

Writ Petition 8371/2022

(Smt. Ankit s/o Fulchand Khandekar Vs. The Chairman, Agricultural Produce Market Committee,
Hingna and others)

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

Court's or Judge's orders

Mr. Rahul Tajne, Advocate for petitioner.
Mr. Abhay Gaikwad Advocate with Mr. Pravin Dandawate, Advocate for
respondents 1 and 2.
Mr. Saurbh Sinha, Advocate for respondent 3.
Mr. M.K. Pathan, Addl. G.P. for respondents 4 & 5.

CORAM : ROHIT B. DEO AND M.W. CHANDWANI, JJ.
DATED : 17-7-2023

1. Petitioner and respondent 3, along with others responded to the advertisement issued by respondent 1 – Agricultural Produce Market Committee (“APMC”) to fill up the post of the Accountant.

2. Respondent 3 was appointed and the petitioner was placed at Serial 2 in the merit list.

3. It is the common ground that respondent no. 3 is dismissed from service for proved misconduct, which is misappropriation of funds.

4. According to the petitioner, since in the selection process which was held in the year 2016 he is at Serial 2, notwithstanding that respondent 3 is dismissed for proved misconduct on 8th March, 2023, it is the petitioner, who is entitled to be appointed in the

resultant vacancy as a matter of right. We have noted the submission only as courtesy to the learned counsel Mr. Rahul Tajne.

5. The question of any right of appointment to the petitioner just does not arise.

6. The fact that the vacancy occurred more than seven years after the selection process held in the year 2016 does not entitle the petitioner, who was placed at Serial 2 to claim appointment. The post shall have to be re-advertised, and we order accordingly.

7. The reliance placed on the decision of the Supreme Court in *Jai Narain Ram Vs. State of U.P. and others* reported in (1996) 1 SCC 332 is clearly misconceived.

8. The appointed candidate did not join and, it is in that context that the claim of Jai Narain Ram to appointment was upheld.

9. The petition is dismissed.

(M.W.CHANDWANI, J.)

(ROHIT B. DEO, J)