



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1945 OF 2024

Shaikh Rizwan Shaikh Usman
Age -32 Yrs., Occu. - Nil
R/o. H. N. 9.6.1014,
Hazrat Umar Farooqui School,
Millat Nagar, Degloor Naka, Nanded.

....PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Ministry of Energy, Govt. of Maharashtra,
Mantralaya, Mumbai – 400 032.
2. State of Maharashtra
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
3. Maharashtra State Electricity Distribution
Company Limited (M.S.E.D.C.L.)
Through its Managing Director,
Prakashgad, Plot No. G-9,
Anant Kenekar Marg, Bandra (East), Mumbai.
4. Executive Director, (Human Resources)
Maharashtra State Electricity Distribution
Company Limited (M.S.E.D.C.L.)
Prakashgad, Plot No. G-9,
Anant Kenekar Marg, Bandra (East),
Mumbai.

.....RESPONDENTS

Mr. T. Y. Sayyed, Advocate for petitioner
Mr. S. B. Narwade, Advocate for respondent Nos. 1 and 2
Mr. A. S. Bajaj, Advocate for respondent Nos. 3 and 4.

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 27th FEBRUARY, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the Parties.
2. The Petitioner has put-forth prayer clauses 'B', 'C' and 'D' as under :-

"B. By issuing Writ of Mandamus or any other Writ, order or direction to hold and declare that the candidature of the Petitioner on the post of Vidyut Sahayyak from EWS category is legal and valid.

C. By issuing Writ of Mandamus or any other Writ, order or direction in the like nature, to direct the respondents to consider appointing the petitioner on the post of Vidyut-Sahayyak, from EWS category in pursuance of Advertisement No. 04/2019.

D. Pending hearing and final disposal of this Writ Petition, one post of Vidyut Sahayyak be kept vacant in the office of Respondent MSEDCL."

3. An Advertisement No.04/2019 was published by Respondent No.3 inviting applications for about 5000 posts of *Vidhyut Sahayyak* (Electrical Assistant) at the various offices of the Company. A first selection list was published comprising of 71 candidates, on 27th October, 2022. A second list of zone wise

selection was published on 3rd May, 2023 comprising of 395 candidates. The selection process has been completed and a new Advertisement is now published on 29th December, 2023.

4. The Petitioner's grievance is that after the Company tendered the cut off list before this Court in Writ Petition No. 1428 of 2022, marking out the general cut off percentage of EWS candidates at 48%, the Petitioner gets a right to be appointed as he has scored more marks than the cut off percentage. It is conceded that he has inadvertently filed two forms, one from the EWS category and the second one from the Open category. The selected candidates were called for document verification on 12th October, 2023 and 13th October, 2023. Grievance of the Petitioner is that those candidates having scored lesser marks and who have competed from EWS category, have been selected and appointed.

5. The learned Advocate for the Company submits that a notification with regard to the filling in of 5347 posts of *Vidyut Sahayyak* has been published vide the Advertisement No. 06/2022 dated 29th December, 2023. Once the candidates are called upon to apply online, the Petitioner can apply if he is eligible. If he tenders

such an online application from whichever category, it would be considered strictly in accordance with the contents of the application.

6. He further points out the reason as to why the Petitioner's candidature has been rejected. Our attention is drawn to clause 9 of the Advertisement which pertains to the procedure for selection and more specifically, clause 9.3 mandates that if a candidate tenders more than one application, the last application would be considered as valid and it shall be deemed that the earlier application has been cancelled by the candidate.

7. The Petitioner had initially tendered an online application from the EWS category. Subsequently, by his own volition, he tendered an application from the Open category. Consequentially, the earlier application was deemed to be rejected/withdrawn and ignored from the selection process. The Petitioner's candidature was considered in the light of the second application tendered by him. The second application was from the Open category. The Petitioner failed to secure a merit rank from the Open category and, therefore, he has been not selected.

8. Considering the above, we have no reason to interfere with the Advertisement since it does not appear to be arbitrary or unreasonable. If candidates are permitted to tender more than one application and if we interpret that any one application may be considered, it would amount to a jugglery on the part of the candidates and it would create a chaotic situation for the Company. The terms of the Advertisement are known to all and it is not the case of the Petitioner that he was unaware of such condition.

9. As such, **this Writ Petition is devoid of merit and is, therefore, dismissed. Rule is discharged.**

10. Needless to state, if the Petitioner makes an online application in response to any further Advertisement for selection as *Vidyut Sahayyak*, the dismissal of this Writ Petition would not be an impediment.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp