



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO.98 OF 2022
IN
WRIT PETITION NO.7281 OF 2020**

1. Vasantao Naik Marathwada Krishi Vidyapeeth,
Parbhani, Taluka and District Parbhani
Through its Registrar
 2. The Vice Chancellor,
Vasantao Naik Marathwada Krishi Vidyapeeth,
Parbhani, Taluka and District Parbhani
- .. Applicants
(Original Respondents
No.1 and 2)

Versus

1. Ganesh s/o. Dnyaneshwar Kute,
Age Major, Occu. Nil,
R/o. At Post Titavi, Taluka Lonar,
District Buldhana 443 302
 2. The University Grant Commission,
(U.G.C.), New Delhi
 3. The Tahsildar, Lonar,
Taluka Lonar, District Buldhana
 4. Sub-Divisional Officer
Mehkar, Taluka Mehkar,
District Buldhana
- .. Respondents
(Respondent No.1 is Original Petitioner,
Respondents No.2 and 3 are original
Respondents No. 3 and 4)

Mr. M. N. Navandar, Advocate for Applicants;
Mr. U. B. Bondar, Advocate for Respondent No.1;
Mr. V. M. Kagne, A.G.P. for Respondents No.3 and 4

**CORAM : RAVINDRA V. GHUGE &
S. G. MEHARE, JJ.**

RESERVED ON :- 20-06-2024

PRONOUNCED ON :- 12-07-2024

ORDER (PER : S. G. MEHARE, J.):

1. The Applicants/Original Respondents No.1 and 2 sought review under Section 114 and Order XLVII of the Code of Civil Procedure of the Judgment and Order dated 13.10.2021 passed by this Bench in Writ Petition No.7281 of 2020.

2. Before advertng to the issues raised in this Review Petition, the facts of the original Writ Petition No.7281 of 2020, in brief, were that the Review Applicants (hereinafter, referred to as “the Applicants”) had published the advertisement for the post of Senior Clerk in 2014. After following the due procedure laid down in the advertisement, the Applicants published the results of the examination. The Original Petitioner (hereinafter, referred to as “the Petitioner”), had secured 184 marks and was called for document verification. When he went to the Applicant's office, he was told that he had not supplied the Non Creamy Layer certificate (hereinafter, referred to as “NCL”) for 2014. He had submitted a photostat copy of the said certificate with the application to the present Applicant. However, it was alleged against the Applicant that they had misplaced the said document and blamed them for not supplying the said certificate. He had a photostat copy of the said certificate with him. He was told that he would not be selected since he did not produce the certificate. He pursued the issue with Respondent No.2 by representation. He had a case that

he had a NCL certificate from 2009 to 2023. The Petitioner had misplaced the original, but its photostat copy is with him. Upon the said photostat copy, it may be verified that the competent authority has issued the certificate. He had submitted an affidavit before the competent authority, stating that NCL certificate vide outward No. MRC-81/TITWI/0715 dated 13.11.2013 was valid upto 2016. The said certificate was issued to him from the Tahsil office on 13.11.2013, as per the record of the outward section. He alleged manipulation in the recruitment process because the next candidate to the Petitioner, also had the same marks, and he was trying to pressurize to quit the recruitment process in exchange for money. He had the call recording which shows the influence of the next candidate. He also alleged that the recruitment committee and the next candidate were hand in gloves. Under these premises, he had prayed to issue a *writ of mandamus* or any other writ or direction in the like nature against present Petitioner No.2, to accept the photostat copy of NCL certificate and affidavit of the Petitioner. He also sought a direction against present Petitioner No.2, not to declare him ineligible in the document verification process for want of the original NCL certificate.

3. Respondents No.1 and 2 had filed affidavit-in-reply. They had denied the Petitioner's case. When the Petitioner/present Respondent No.1 was asked to produce the NCL certificate issued after 01.04.2014, therefore, he was unable to produce the same

during the document verification and made allegations against the committee that the committee had misplaced his original NCL certificate of the year 2014. Subsequently, he forwarded the photostat copy of the NCL certificate, which could not be considered as the candidate was expected to produce the same at the time of document verification. He made a false allegation against the University. The Writ Petition was liable to be dismissed as Respondent No.1 failed to comply with the terms and conditions of the advertisement. As per the advertisement, Respondent No.1/Petitioner was to produce a NCL certificate on or after 01.04.2014.

4. After hearing the respective parties at length and getting the NCL certificate produced, this Court, by the Order under review had allowed the Writ Petition with the following directions:-

- "(a) The University would place the Non Creamy Layer Certificate dated 15.03.2018, which is page No.2 of the compilation "X" in the file of the Petitioner, who is a candidate for the selection process.*
- (b) The Petitioner shall approach the Sub Divisional Officer, Mehkar by filing an application along with the copy of this order, seeking a certified copy of the caste certificate Part-A and Non Creamy Layer Certificate Part-B dated 15.03.2018, issued on 26.03.2018. Such application shall be filed on or*

before 20.10.2021.

- (c) *We call upon the Sub Divisional Officer, Mehkar to issue a certified copy of the said certificate, as expeditiously as possible and preferably, on or before 22.10.2021, at 3.00 p.m. The Petitioner shall collect the certified copy of the said certificate from the Office of the Sub Divisional Officer, Mehkar at 3.00 p.m. on the said date.*
- (d) *The Petitioner shall submit the above-stated certified copy to Respondent No.1 – Registrar, Vasantrao Naik Marathwada Krushi University by 5.00 p.m. on 25.10.2021.*
- (e) *Since the University has deferred the selection process for quite some time due to the pendency of the petition, though the documents verification shall completed on 12.10.2021, we expect the University to allow the Petitioner to tender his certificate by 25.10.2021 and thereafter proceed with the selection process."*

5. The Applicants sought review of the above order on the following grounds:-

- (I) *Considering the important clauses of the advertisement i.e. clause No.4 dealing with terms and conditions and under*

sub-clause No.(2)(5) of the said clause No.4, it was provided that the copy of Non-Creamy Layer certificate must be dated 01.04.2014 or thereafter. Further, in view of clause No.24, Respondent No.1 has failed to produce NCL certificate as provided within the time limit prescribed. As such, there is an error apparent on the face of the record. The judgment and order need to be modified in the interest of justice.

- (II) The xerox copy of NCL certificate produced on record by the learned A.G.P., which was issued by the office of Sub-Divisional Officer Mehkar, dated 15.03.2018 can be considered in the present matter, is an error apparent on the face of the record.*
- (III) Respondent No.1 had alleged that his original NCL certificate was lost. Therefore, he had produced the xerox copy. However, after going through the said NCL certificate, it is established that the same is false, bogus, concocted and created document. The format of the NCL certificate is different. The portion below the stamp mark appears to be blank on that certificate. It indicates the falsity of the said certificate.*

6. It is prayed that the judgment and order dated 13.10.2021 passed in Writ Petition No.7281 of 2020 may kindly be reviewed and modified.

7. The Petitioner also filed additional affidavit submitting that considering the State Government circular dated 17.08.2013, the NCL certificate is to be issued on the basis of annual income for the last three consecutive years. In view of the advertisement, the NCL certificate should be issued on 01.04.2014. The contention of Respondent No.1/Petitioner in his Petition was that he had produced the NCL certificate with his Application for the post of Senior Clerk (at Page No.18 in his Writ Petition No.7281 of 2020). It was issued on 13.11.2013. The said certificate cannot be considered as the date of issue is 13.11.2013. As per the NCL certificate required to be produced, it should have been issued on 01.04.2014 or thereafter. It was a suspicious document.

8. Learned counsel for the Petitioner has vehemently argued that the verification of the certificate produced with the Application was done from the Sub-Divisional Officer, Mehkar. The Sub-Divisional Officer, Mehkar has submitted the report to the University that the NCL certificate dated 01.04.2014 issued in the name of Respondent No.1, informing him that there was no entry in the name of Respondent No.1 issuing the NCL certificate in the register for the year 2014. He has produced the Application submitted by Respondent No.2 with NCL certificate dated 01.05.2014. He has vehemently argued that the said document is forged and false. It is a created document. Since the said

certificate was issued after 01.04.2014, it violates the conditions of the advertisement. The gist of his arguments is that whatever the document was produced with the Application, is false, bogus and created. Hence, the Petitioner cannot be considered for the post of Senior Clerk.

9. Mr. U. B. Bondar, learned counsel for contesting Respondent No.1 (Original Petitioner) has strongly opposed the contention of the Applicants. He submits that the true and correct certificate issued by the S.D.O., Mehkar was produced. After considering the facts, this Court, in the Writ Petition, directed the Applicant/University to allow Petitioner, to tender his NCL certificate dated 15.03.2018 by 25.10.2021 and then proceed with the selection process.

10. As per the directions of the Court, the State has produced the register maintained by E-Seva Kendra from 02.08.2013 to 04.12.2013 and the register maintained by S.D.O., Mehkar from 01.10.2013 to 18.01.2014.

11. Learned Counsel for the Applicants placed on record the copy of the Application submitted by Respondent No.1/Petitioner along with the relevant documents.

12. A review has been sought as certain new facts were discovered, which has a great concern with the *bona fides* of the

Petitioner. The terms of the advertisement were very specific, and the NCL certificate should be dated 01.04.2014 or thereafter. After the order of this Court against which the review is sought, the Petitioner proceeded to verify the veracity of the document, which the Petitioner attached to the Application. A letter was addressed to the Sub-Divisional Officer, Mehkar dated 03.12.2021, requesting him to certify whether NCL certificate dated 01.05.2014 was issued from his office. In response to the said letter, the Sub-Divisional Officer, Mehkar by reply dated 31.12.2014, submitted that on examining the register of the NCL certificate for the year 2014, it is revealed that there was no entry in the name of the Petitioner issuing his certificate. However, as per the order of this Court, the NCL certificate was issued. To verify the facts, the learned A.G.P., the record of the Treasury Office, particularly NCL Register issuing the certificate, were called. Respondent No.2 had submitted the NCL certificate with the Application dated 01.05.2014. This document has been seriously objected to as there were some blank spaces and the stamp of the Officer of the Sub-Divisional Office also did not match. The said certificate is also attached to the Application. It was issued on 01.05.2014.

13. To counter the allegations of non-issuance of NCL dated 01.05.2014, the learned counsel for Respondent No.1 produced a letter of the S.D.O. Mehkar, dated 18.04.2023. By this letter, the S.D.O. Mehkar intimated Petitioner that the NCL certificate bearing

No. MRC-81/TITWI/0715 dated 13.11.2013 has been issued to the Applicant. However, the old records have been burnt in a massive fire in the office on 31.03.2022. Therefore, its office copy is not available in the office.

14. He also produced a copy of the crime detail form, to bolster his arguments. On the same day, the learned A.G.P. has placed the communication on record dated 14.03.2024, marked as Exhibit-"X-2". In this letter, S.D.O., Mehkar informed him that the NCL certificate dated 13.11.2013 has been examined. As per the record, there is no entry of the said record in the register maintained by the office of the S.D.O., Mehkar.

15. In addition to that, learned A.G.P. had submitted that on the date of this alleged letter dated 18.04.2023, the S.D.O., Mehkar, was on leave. It was also the office bearer of the name of the officer who delivered it. Therefore, the said letter is also doubtful.

16. To ascertain the facts, the registers issuing NCL certificates were directed to be produced. After examining the registers, it was found that there are no entries issuing certificates on which the Applicant relies. The next question is, how the certificate was issued on 01.05.2014, a State holiday declared as Maharashtra Day / *Kamgar Din (Labour Day)*. Considering the facts revealed to the Petitioner after the order under review was passed, the Court is of the view that the new facts discovered had relevance to the

issue and required to be considered afresh, and opportunity needs to be granted to put forth the facts of the case and decide the right of Respondent No.1 on merit. Hence, we deem it appropriate and just to recall our Order dated 13.10.2021. As a consequence, Writ Petition No.7281 of 2020 is restored to its stage at which it was decided vide our Order dated 13.10.2021.

17. This Review Application stands allowed in the above terms.

18. Learned Counsel for the respective parties waive service of fresh notice.

19. List the Writ Petition before the regular Bench assigned with the extant roster.

20. The original documents tendered to the Court by the University as well as by the learned A.G.P. are returned to the respective Counsel.

(S. G. MEHARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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