



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10098 OF 2024

ABDUL ATEEQUE ABDUL GHANI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Shri A.R. Syed, Advocate for the Petitioner.
Shri V.M. Kagne, AGP for Respondent Nos.1 and 2/State.

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CORAM : NITIN JAMDAR
&
RAVINDRA V. GHUGE, JJ.

DATE :- 18 September 2024

Per Court :-

Heard the learned Counsel for the parties.

2. The Petitioner is seeking various directions by way of this Writ Petition primarily centered around relaxation of age in the recruitment process to be conducted for teachers.

3. On 31 January 2023, the Maharashtra State Examination Council declared the programme for Teachers' Aptitude and Intelligence Test (TAIT), to be held between 22 February 2023 to 03 March 2023. The Petitioner appeared

for the TAIT examination through the Economically Weaker Section (EWS) category and secured minimum qualification marks. The examination results were declared on 24 March 2023. Thereafter, an advertisement was issued for recruitment of teachers. On the date when the advertisement was issued, the Petitioner had crossed the minimum stipulated age. The Petitioner made a request to the Respondent Authorities, by an email on 15 July 2024, that the age of the Petitioner should be considered from the date when he gave the examination and he should be considered within the age limit. The Respondent replied to the Petitioner on 15 July 2024 itself, by an email, that two years relaxation due to Covid pandemic is already given (38+2 years) and, therefore, his request cannot be considered. Being aggrieved, the Petitioner is before us.

4. The Petitioner has firstly sought a Writ of Mandamus to the Respondent Authorities to relax the requirement of age for the Petitioner. Admittedly, the Petitioner has not shown any statutory rule or a stipulation in the advertisement by which, the age can be relaxed. In absence of any such power vested in the Respondents, it is not possible for this Court to issue a Writ of Mandamus to the Respondents to consider the age relaxation. On the contrary, a clarification is issued by the Respondents on 26

February, 2024 specifying what would be the relevant date for considering the age, which does not support the Petitioner. The argument of the Petitioner that there is no prohibition for age relaxation, therefore, a Writ of Mandamus be issued, cannot be accepted in the absence of any specific duty cast upon the Respondents to consider the applications for relaxation of age.

5. The Petitioner has also challenged the stipulation in the Government Resolution dated 10 November 2022, more particularly clause 3(1) to the extent of treating the date of advertisement as relevant one and also the instructions dated 26 February 2024 issued by Respondent No.2.

6. Clause 3(1) of the Government Resolution dated 10 November 2022 has specifically stated that the relevant date for considering the age is the date of advertisement. *Per se*, there is nothing arbitrary about this stipulation. Merely because the Petitioner becomes age barred because of this stipulation, cannot be a ground to declare the provision to be arbitrary. The only contention advanced by the Petitioner so as to challenge clause 3(1) of the Government Resolution is that clause 3(4) of the said Government Resolution contemplates that after the TAIT examination is over, as per the requirement of recruitment the advertisement should be

issued within three months. This clause 3(4), however, cannot mean that the relevant date for consideration of the age should be the date of TAIT examination or after three months of the examination. This Government Resolution read with earlier Government Resolution dated 07 February 2019 only lay down the time-table and the methodology. Therefore, the date of advertisement remains valid date for consideration of the age as per the Government Resolution. This date is uniformly applicable and cannot be deviated only for the Petitioner.

7. In these circumstances, no case is made out for interference in the Writ Jurisdiction. The Writ Petition is, accordingly, rejected.

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(RAVINDRA V. GHUGE, J.)

(NITIN JAMDAR, J.)