



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12465 OF 2024

Shivkanya D/o Babasaheb Gadekar
Age : 45 years, Occu. : Asha Worker,
R/o. Sashth Pimpalgaw, Tq. Ambad,
Dist. Jalna

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai – 32.
- 2] The Chief Executive Officer,
Zilla Parishad Jalna, Tq. and Dist. Jalna
- 3] The District Health Officer,
Health Department Zilla Parishad,
Jalna, Tq. and Dist. Jalna
- 4] The Taluka Health Officer, Ambad
Sub District Rural Government Hospital,
Ambad, Tq. Ambad and Dist. Jalna
- 5] Sunita D/o Madhukar Ravas,
Age : 45 years, Occu : Asha Worker,
R/o Primary Health Center, Shahagad,
Tq. Ambad and Dist. Jalna

...
Advocate for petitioner : Mr. Mahesh L. Muthal
AGP for the respondent – State : Ms. S.S. Joshi
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 19 NOVEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard learned advocate for the petitioner.

2. The petitioner is challenging the decision of the respondent in appointing respondent no. 5, on the post of *Gat Pravartak* in preference to her.

3. Learned advocate would submit that it is a post under some scheme of the government and expressly informs us about absence of any service regulation applicable to the post of *Gat Pravartak*. He would submit that there are certain guidelines, a copy of which he has annexed to the petition at page no. 17. He would submit that pursuant to clause no. 6, though the minimum educational qualification is passing of 10th standard examination, it was expressly mentioned that candidates having higher qualification would be preferred. The petitioner possesses higher qualification being Master of Arts (M.A.) and should have been preferred against respondent no. 5 for the appointment. He would also submit that there is no objectivity in the assessment and the selection of respondent no. 5, is arbitrary.

4. It is pursuant to our query, that the learned advocate for the petitioner expressly submitted that there are no service regulations or rules in respect of *Gat Pravartak*. It is under some scheme of the government in the Health Department that Asha Swyamsevaks are appointed and who are eligible for being appointed as *Gat Pravartak*.

5. Once having seen that there are no rules and regulations prescribing any eligibility criteria, everything will depend upon the advertisement and the guidelines referred to by the learned advocate for the petitioner.

6. It is pertinent to note that having participated in the selection process and having faced the interview, it would not be available for the petitioner, to take any exception to the process of selection. Since, admittedly, she had faced the interview together with respondent no. 5, who were the only two candidates, marks were allotted by a duly constituted committee under the National Health Mission comprising of five members, who allotted the marks and respondent no. 5 stood superior in merits. Even, as can be seen from this mark sheet (page no. 26) and assessment in respect of education qualification and experience (page 27) apart from the fact that respondent no. 5 had scored better in the viva-voce, she was having more experience of working as Asha Worker as compared to the petitioner. Since the issue is based on objective scrutiny and by allocation of marks, this Court cannot undertake any examination of the selection process, in exercise of the powers under Article 226 of the Constitution of India.

7. So far as guideline no. 6 is concerned, it merely declares that minimum educational qualification would be 10th standard pass. Though it further reads that preference would be given to candidates having higher educational qualification, going by the service jurisprudence, this would mean that it is only in case of there being a tie between or amongst the candidates, that a candidate having higher educational qualification would be preferred. It cannot be understood to mean that irrespective of all other criterion and score, the candidate having higher educational qualification would be preferred. This would not be in consonance with the service jurisprudence.

8. As is observed above, since, admittedly, respondent no. 5 had scored more and having more experience of working as Asha Worker, petitioner's possessing higher educational qualification, cannot be a ground to cause interference in the selection process.

9. There is no merit in the petition and we refuse to entertain it.

10. The petition is dismissed.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/