

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9989 OF 2024

Union of India & Anr. ... Petitioners

V/s.

Pradip Vijaykumar Pawar & Ors. ... Respondents

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Mr. Y. S. Bhate a/w Mr. Ashutosh Mishra for Petitioners.

Mr. Vishal P. Shirke for Respondent No.6.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : JULY 22, 2024

Oral Order: (Per Amit Borkar, J.)

1. By this petition filed under Articles 226/227 of the Constitution of India, Petitioner No. 1, the Union of India, challenges the judgment and order dated October 12, 2023, passed by the Central Administrative Tribunal, Mumbai Bench (Tribunal) in OA No. 564 of 2015. The Tribunal had partially allowed the application and directed the petitioners to complete the selection process and appoint Respondent Nos. 3 and 6 as Safaiwalas. The primary reason for this decision was that the cancellation of the entire selection process by the Government, in the absence of systemic fraud and the segregation of untainted candidates, was found to be arbitrary and irrational by the Tribunal.

2. In 2007, Petitioner No. 2 advertised vacancies for

Group-C Industrial, Group-D Industrial, and Non-Industrial posts through leading local newspapers for direct recruitment. The advertised posts included the posts of Chowkidar, Safaiwala, and Farash. The recruitment process was completed, and results were declared following trade tests and interviews. Respondent Nos. 3 and 6 were recommended for the Safaiwala positions. However, the Directorate of Printing, under instructions from the Ministry of Urban Development, issued an Office Memorandum (OM) dated April 3, 2008, suspending the recruitment process due to complaints of irregularities in recruitment at certain Government of India Presses. An inspection conducted by the Additional Secretary & Chief Vigilance Officer (AS & CVO) revealed irregularities. The AS & CVO's recommendations were accepted, leading to the issuance of an OM dated May 29, 2013, which cancelled the selection process for 22 posts. The AS & CVO's report identified that, for the Chowkidar position, three selected candidates were relatives of existing employees, and for the Safaiwala position, two out of the ten selected candidates were relatives. Additionally, 114 interviews conducted over two days suggested lack of due diligence. All selected candidates for Farash were relatives of existing employees, resulting in the cancellation of the entire selection process.

3. Respondents, aggrieved by the OM's dated May 29, 2013, and April 17, 2014, issued by the Directorate of Printing, Ministry of Urban Development, which cancelled the selection process for 22 posts, filed OA No. 564 of 2015 with

the Tribunal.

4. The petitioners submitted their reply and contested the application. After considering the pleadings and hearing the parties, the Tribunal partially granted the application, directing the petitioners to complete the selection process and appoint Respondent Nos. 3 and 6 as Safaiwalas, provided they remain eligible based on medical fitness and police verification. The petitioners have now filed the present writ petition.

5. Mr. Bhate, the learned advocate for the petitioner, relied on the judgment in **Dinesh Kumar Kashyap & Ors. v. South East Central Railway & Ors.**, reported in (2019) 12 SCC 798, asserting that requirement for providing reasons for the cancellation of the selection process had been met. He argued that the AS & CVO's report identified serious irregularities, including the selection of relatives of existing employees and the rapid conduct of 114 interviews, which suggested lack of due diligence. Consequently, Mr. Bhate contended that the Tribunal's decision to set aside the selection process and appointment of Respondent Nos. 3 and 6 as Safaiwalas should be overturned. He also referenced **Vijay Kumar Dahiya & Ors. v. Union of India & Ors.** (Writ Petition (C) No. 1989 of 2014), where the Delhi High Court confirmed a similar decision, arguing that the Tribunal should have upheld the petitioners' decision to cancel the entire selection process.

6. Mr. Shirke, the learned advocate for Respondent No. 6, supported the Tribunal's order, arguing that it correctly relied

on **Union of India v. Rajesh P.U., Puthuvalnikathu & Anr.**, reported in (2003) 7 SCC 285, where the Supreme Court held that, in the absence of specific findings or concrete evidence of widespread infirmities, the entire selection process could not be deemed flawed. He argued that, with only two of ten selected Safaiwala candidates being relatives, the Tribunal rightly directed the continuation of the selection process for Respondent Nos. 3 and 6, subject to their eligibility, medical fitness, and police verification.

7. Rival contentions fall for consideration.

8. Perusal of the record reveals that the petitioners initiated a recruitment process for 22 posts, including 5 posts each for Chowkidar and Safaiwala, and 3 posts for Farash. The Tribunal declined to interfere with the cancellation to the Chowkidar and Farash, citing the selection of relatives of existing employees. For the Safaiwala posts, the Tribunal considered the Supreme Court's judgment in *Dinesh Kumar Kashyap & Ors. (Supra)*, which emphasizes that the State must provide a justifiable, non-arbitrary reason for not filling the posts. The Court's guidance states that the State's actions must align with Article 14 of the Constitution and avoid arbitrary decisions.

9. In **Charanjit Singh & Ors. v. Harinder Sharma & Ors.**, reported in (2002) 9 SCC 732, the Supreme Court held that the mere fact that some candidates were relatives of selection committee members did not imply that all candidates were improperly selected. It was determined that

public interest litigation was not the appropriate forum for such grievances.

10. In **Sachin Kumar & Ors. v. Delhi Subordinate Service Selection Board**, reported in (2021) 4 SCC 631, the Supreme Court addressed allegations of irregularities in recruitment processes. It held that while systemic fraud or irregularities could lead to the cancellation of the process, significant irregularities affecting equal access for candidates would be of concern. Public bodies must act fairly and reasonably throughout the selection process.

11. In the case of Safaiwala, where 5 posts were advertised and 10 candidates were selected, with only 2 being relatives of existing employees, the AS & CVO's vague criticisms did not justify cancellation of the entire process. The decision to cancel was based on conjecture rather than concrete evidence. The Tribunal, relying on *Rajesh P.U. (Supra)*, correctly concluded that the untainted candidates deserved appointment. Thus, it rightly directed the petitioners to complete the selection process and appoint Respondent Nos. 3 and 6 as Safaiwalas, provided they remain eligible based on medical and police verification.

12. Therefore, in the absence of systemic fraud impacting the entire selection process, the Tribunal's decision to segregate tainted appointments and direct the appointment of Respondent Nos. 3 and 6 as Safaiwalas, contingent on their continued eligibility, is well-reasoned and requires no further interference.

- 13.** The writ petition stands dismissed. No order as to costs.
- 14.** Pending interim application(s), if any, stand disposed of.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)