



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6384 OF 2023

1. Swati Changdeo Janbandhu, age 35 years, Occupation Nil, Resident of Saroj Colony, Sut Girni Road, Amravati – 444 607
2. Pravin s/o Sitaram Ingole, Age 42 years, Occupation Nil, Resident of Kondhala Zamre, Post Kata, Tq & District Washim.
3. Jayesh s/o Pralhad Rokade, Age 28 years, Occupation Nil, Resident of 3, Prabhat Nagar, D.C. College, Dhule - 424005

... PETITIONERS

VERSUS

1. Maharashtra Industrial Development Corporation, Through Chief Executive Officer, Udyog Sarthi, Mahakali Caves, Andheri (East), Mumbai – 93
2. Chief Officer (HRD), Maharashtra Industrial Development Corporation, Udyog Sarthi, Mahakali Caves, Andheri (East), Mumbai – 93.
3. Administrative Officer, Maharashtra Industrial Development Corporation, Udyog Sarthi, Mahakali Caves, Andheri (East), Mumbai – 93

... RESPONDENTS

Corrected as
per Court's
order dated
03.08.2024.

Shri C.S. Dhore, Advocate for the petitioners.
Shri J.B. Kasat, Advocate for Respondent Nos. 1 to 3.

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATE : 16.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. In response to the Advertisement dated 17.07.2019 titled as a "Direct Recruitment – 2019 (Class C and Class D)", the petitioners have applied for the post of Steno (Lower Grade). The process of the recruitment for the said post was comprising in two parts i.e. written test, if qualified followed by the professional test. The petitioners have appeared for the written test held in August 2021, in which they qualified as per the declaration of result on 30.12.2021. On the very date, a notification was issued informing that the successful candidates in written test have to appear for the skill test, which would be

conducted later. However, the recruitment process was scrapped for the post of Steno (L.G.) vide impugned communication dated 04.08.2023.

4. Learned Counsel for the petitioners seriously objected the mode and manner of abandoning recruitment process without valid justification. The petitioners have cleared written test which caused to include their names in provisional select list dated 30.12.2021. According to the petitioners, despite several communications, the recruitment process for the said post was not completed but a new recruitment process for the said post among others was undertaken vide Advertisement published on 13.08.2023.

5. The learned Counsel for the petitioners would submit that there is no justification for abandoning the recruitment process in the midway, which has adversely effected the prospects of the petitioners. Learned Counsel appearing for the petitioners by relying on the decision of the Supreme Court in case of ***Kumari Anamica Mishra and anr. vs. U.P. Pulic Service Commission, Allahabad and ors AIR 1990 SC 461*** urged that the respondents be directed to include the petitioners in the new process from the stage of skill test since they have already cleared written examination. The petitioners further relied on the Supreme Court's decision in case of ***Lt. CDR.M. Ramesh vs. Union of***

India and ors. (2018) 16 SCC 195 to contend that the State has to act fairly and it cannot act in an arbitrary manner. The decision of abandoning the process must be *bona fide* and for justifiable reasons. On the same line, reliance is placed on the decision of the Supreme Court in case of *Bharat Petroleum Corporation Ltd. vs. Maddula Ratnavalli and ors. (2007) 6 SCC 81* with additional contention that reasonableness and nonarbitrariness are the hallmarks, in absence of the action vitiates.

6. The respondents resisted the petition by contending that the petitioners were not selected on the post of Steno (L.G.) for which they applied. Secondly, even selected candidates have no vested rights of an appointment and the State is under no obligation to fill up the vacancies. Moreover, it is contended by the respondent that they tried to conduct the skill test however they could not due to inability shown by the Government approved Agency. The relevant paragraph 7 of the reply reads as below :

“It is submitted that, though for holding Skill Test examination the communication dated 09.12.2022 was given to the Directorate of Vocational Education and Training, Maharashtra State, however the Directorate of Vocational Education by reply communication dated

17.07.2023 shown their inability to hold the Skill Test examination as requested due to already scheduled examinations for other statutory body. The true copy of the communication dated 09.12.2022 and reply communication dated 17.01.2023 are enclosed herewith as DOCUMENT NO.1.”

7. Learned Counsel for the respondents reiterated the cherished principle of service law that the Selectee has no infeasible right to appointment, nor State is under obligation to fill up the vacancies. It is contended that though the names of the petitioners were included in the provisional select list dated 30.12.2021, however it was not a select list but a list of eligible candidates to appear for further skill test. With this contentions, the petition is prayed to be rejected.

8. Undisputedly, the respondent undertook the recruitment process in the year 2019 to fill up the various posts including the post of Steno (L.G.). The said Advertisement was published in the year 2019. As per the Advertisement, the post of Steno (L.G.) was to be filled by the method of written test, and on clearance thereof, through further skill test. Undisputedly, the petitioners have appeared in the written test held in the month of August 2021 and found eligible for

further test vide list published on 30.12.2021. There is no dispute that the same Advertisement was for filling of various posts. The recruitment process was completed for some other posts but was abandoned for the post of Stenographer (L.G.). It is not in dispute that the process was abandoned for the post of Stenographer (L.G.) and now, the new advertisement for filling up these posts has been published on 13.08.2023. As per the new Advertisement, a written test was held in the month of April 2024, in which the petitioners also participated by virtue of interim order of this Court, and now, the results are awaited.

9. It is consistent view that a Selectee has no vested right of an appointment, which has been reiterated by the Supreme Court in case of *Lt. CDR.M. Ramesh vs. Union* (supra). However, undisputedly, the action on the part of the respondents of abandoning the process must be fair, unarbitrary and justifiable by appropriate reasons. The respondent has tendered communication dated 09.12.2022, whereby Government approved Agency was requested to undertake a skill test of the selected candidates. However, the said Agency vide reply dated 17.01.2023 has expressed their inability due to other engagements. The learned Counsel appearing for the respondents also urge to take a

judicial note that after the year 2019, the things remained static for considerable period due to COVID-19 pandemic situation. It emerges that in the year 2019, Advertisement was published however for next two years skill test was not undertaken for the reasons stated by the respondents in addition to pandemic situation. By the time, the period near about 4 years has been lapsed from the first advertisement. Moreover, the petitioners were not selected in first recruitment process. The selection was in two stages i.e. written test followed by skill test. The list published was only about the eligibility of the petitioners to appear for skill test and thus, in true sense they cannot be termed as selectee in the process.

10. The petitioners' urge for directly admitting them in fresh process cannot be acceded due to the lapse of four years. True, the recruitment Advertisement bears a clause that the process can be abandoned at any stage, however certainly the State has to justify by valid reasons for abandoning the process. It is informed that first recruitment process for the post of Steno (L.G.) was for filling up 20 vacancies and now, new Advertisement is also for filling up the 20 posts. The second recruitment process is under way meaning thereby thousands of candidates have already participated. In the

circumstances, the petitioners could not be allowed to directly appear for the skill test, which would frustrate the rights of all the candidates, who have partaken in new process. Moreover, during passage of time, several new candidates have achieved the eligibility and they are entitled to compete. The respondents have given a justifiable reason for abandoning the process. We see no arbitrariness or *mala fides* on the part of the respondents. True, the petitioners are unfortunate candidates but the action of abandoning the process cannot be restored nor advantage can be given to the petitioners on that count. In the circumstances, the petitioners, who are even not selectee have no right, and therefore, the petition being devoid on merits, stands dismissed.

11. Rule stands discharged. No costs.

(SMT. M.S. JAWALKAR, J.)

(VINAY JOSHI, J.)

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