



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO. 8261 OF 2023

Mahesh Balasaheb Kate

VERSUS

The State Of Maharashtra Through Its Secretary and Others

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Mr. Wagh Umakant U., Advocate for the Petitioner

Mr. S. D. Ghayal, Addl. GP for Respondent State

Mr. A. S. Bajaj, Advocate for Respondent Nos. 2 and 3

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CORAM : MANISH PITALE &
Y. G. KHOBRAGADE, JJ.

DATE : 24th September, 2025

PER COURT :-

1. Heard learned counsel appearing for the petitioner and learned counsel appearing for the contesting Respondent Nos. 2 and 3.

2. In this case, the petitioner is aggrieved by the communication dated 24.05.2023 issued by Respondent No.3- Executive Engineer, Maharashtra Electricity Distribution Company Ltd. (hereinafter referred to as the Distribution Company). By the said communication, the respondent Distribution Company informed the petitioner that although his name found mention in the select list for appointment to the post of Vidyut Sahayyak, appointment order was not being issued in his favour in the light of the fact that registration of FIR dated 02.07.2022 for serious offences under the provisions the Indian Penal Code and Wild Life (Protection) Act, had come to light. Therefore, the Distribution Company invoked Clause 12 of the Advertisement, in pursuance of

which the selection process was initiated, to refuse to issue appointment order to the petitioner.

3. Learned counsel for the petitioner submits that Clause 12 of the Advertisement No.5/2014 issued by the respondent- Distribution Company is in conflict with the Classification and Recruitment Regulations, 2005, particularly Clause 11 of the said Regulations. By inviting attention to the aforesaid clause of the Regulations, it was contended that a person like the petitioner could have been held ineligible to be appointed to the post only in the event he was shown to have been convicted in a criminal court for any offence, which in the opinion of the Distribution Company, was considered unsuitable for employment. It is submitted that in the present case, only the aforesaid FIR has been registered, even charge sheet has not been filed till date and therefore, the Distribution Company cannot deprive the petitioner of appointment to the aforesaid post for which he has been admittedly selected by the Distribution Company.

4. It is further submitted that Clause No. 12 of the advertisement has introduced a completely new criterion, to the effect that if the company finds the past conduct of the candidate to be improper, the appointment can be cancelled. This criterion is foreign to the aforementioned Regulations and hence, the impugned communication deserves to be set aside. In that regard, learned counsel for the petitioner relied upon judgment of the Supreme Court in

the case of **Ashish Kumar Vs. State of Uttar Pradesh & others, (2018) 3 Supreme Court Cases 55.**

5. On the other hand, learned counsel appearing for Respondent Nos. 2 and 3 i.e. Distribution Company submitted that Clause 12 of the Advertisement specifies that the appointment of a candidate can be canceled either, if he is found ineligible for selection during any stage or if his past conduct reflects inappropriate character. It is submitted that after the petitioner was included in the select list, as per the norms, police verification was carried out, which revealed registration of the aforesaid FIR for serious offences. The Distribution Company found the allegations against the petitioner in the said FIR extremely serious and that such circumstances indicated that Clause 12 of the Advertisement could be invoked to issue the impugned communication dated 24.05.2023. It is submitted that the aforesaid clause in the advertisement cannot be said to be in conflict with the Regulations and that there is no substance in the contentions raised on behalf of the petitioner. In that light, it was submitted that although there cannot be any quarrel with the proposition of the law laid down in the said judgment of the Supreme Court in the case of **Ashish Kumar** (supra), it would not apply to the facts of the present case.

6. On the other hand, reliance is placed on the judgment of the Supreme Court in the case of **Avatar Singh Vs. Union of India and others, (2016) 8 Supreme Court Cases 471**, wherein the Supreme Court indicated the significance of verification of character and

antecedents of a person in the context of the question of suitability for appointment. On this basis, it is submitted that writ petition deserves to be dismissed.

7. We have considered the rival submissions. Cause 12 of the aforesaid advertisement stipulates that selection of a candidate can be cancelled at any stage without notice, if it is found either that the candidate is ineligible for appointment to the subject post or if the Distribution Company comes across material which shows the past conduct of the candidate as being inappropriate for appointment on the concerned post. We find that apart from ineligibility, the second limb of the said clause does indicate the right reserved by the Distribution Company as an employer to cancel selection of a candidate based upon verification of character and antecedents.

8. Regulation 11 of the Recruitment Regulations states that if a person is either declared insolvent by a competent court or he/she is convicted in a criminal court for an offences which the Distribution Company finds to be of grave nature and hence, considers such a candidate unsuitable for employment, such a candidate would be held to be ineligible.

9. There can be no doubt about the fact that if only Clause 11 of the said Recruitment Regulations is looked at, conviction in a criminal court would be necessary to invoke the same to hold the candidate

ineligible for appointment with the Distribution Company. But, the said clause cannot be read in isolation.

10. We find that the said Regulations provide for interpretation clause and even a general clause. Under the heading of General Clause, Clause 5 stipulates that all appointments in the Distribution Company shall normally be made in accordance with the provisions of the said Regulations. But, Note-1 appended to the said clause further stipulates that nothing in the Regulations shall be deemed to restrict the authority of the Company to adopt other methods or standards of recruitment in such cases as it considers necessary. We are of the opinion that the aforesaid Note -1 to Clause 5 of the Recruitment Regulations leaves enough play in the joints for the Distribution Company to incorporate the aforesaid stipulation in Clause 12 of the Advertisement. The second limb of the aforesaid clause noted hereinabove obviously places much emphasis on the antecedents and character of the candidate. It specifically lays down that if the past character or conduct of the candidate is found to be inappropriate, the selection of such candidate can be cancelled at any stage without notice. It cannot be said that the said stipulation in clause 12 of the said Advertisement is in conflict with the aforesaid Recruitment Regulations issued by the Distribution Company. Therefore, the judgment of the Supreme Court in the case of **Ashish Kumar** (supra), cannot be of assistance to the petitioner.

11. Respondent- Distribution Company is justified in relying upon the judgment of the Supreme Court in the case of **Avatar Singh** (supra), wherein it was specifically noted that the whole idea of verification of character and antecedents is that a person suitable for the post in question is appointed. It is specifically recorded that such requirement of verification of character and antecedents is an important criterion, which is necessary to be fulfilled before appointment is made.

12. In the present case, we find that the aforesaid FIR dated 02.07.2022 has been registered against the petitioner alongwith other accused persons for serious offences pertaining to the provisions of Wild Life (Protection)Act, 1972 and Section 429 of the Indian Penal Code.

13. The allegations are of grave nature, which include an allegation that the petitioner alongwith co-accused persons was apprehended with Elephant tusk (ivory) on specific information received by the concerned authority. The Distribution Company is well within its rights to form an opinion that registration of the aforesaid FIR for such serious offences is a factor to be taken into consideration for invoking Clause 12 of the Advertisement to issue the impugned communication.

14. A perusal of the impugned communication shows that specific reference is made to the aforesaid FIR, which came to light during police verification and thereupon, the Distribution Company has recorded that in the light of pendency of such serious case against the

petitioner, appointment order cannot be issued in his favour. No fault can be found on the part of the Distribution Company in issuing the impugned communication and hence, we find no merit in the present petition.

15. Accordingly, the writ petition is dismissed. Pending applications, if any, stand disposed of.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)

JPChavan