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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2321 OF 2025

Imrankhan Rasoolkha Pathan,
Age: 30 years, Occu: Nil,
R/o : At Borgaon, Post Borgaon Bazar,
Ta. Sillod, Aurangabad,
Maharashtra-431113

....PETITIONER

VERSUS

1. State of Maharashtra,
Through its Secretary,
Industries, Energy and
Labour Department,
Govt. of Maharashtra,
Mantralaya, Mumbai – 400 032
2. State of Maharashtra,
Through its Secretary,
General Administration Department,
Govt. Of Maharashtra,
Mantralaya, Mumbai – 400 032
3. Maharashtra State Electricity
Distribution Limited (M.S.E.D.C.L.),
through its Chairman and
Managing Director,
Prakashgad, Plot No.G-9,
Anant Kenekar Marg, Bandra (East),
Mumbai
4. Maharashtra State Electricity
Distribution Limited (M.S.E.D.C.L.),
through its Chief General Manager
(Human Resource),
Prakashgad, Plot No.G-9,

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Anant Kenekar Marg, Bandra (East),
Mumbai

....RESPONDENTS

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Mr Sayyed Tauseef Yaseen, Advocate for petitioner
Mr R. K. Ingole, A.G.P. for respondent Nos.1 & 2

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

DATE : 27th February, 2025

ORDER (PER : PRAFULLA S. KHUBALKAR, J.)

1. Heard learned advocate Mr Sayyed Tauseef Yaseen for the petitioner.
2. By this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the communication dated 12/12/2022, issued by respondent Nos.3 and 4 MSEDCL, rejecting his candidature and selection for the post of '*Upkendra Sahayyak*', on the ground of non-disclosure of a pending criminal case against him and suppression of material facts.
3. Learned advocate for the petitioner vehemently argued that the impugned decision is arbitrary and illegal. Since the petitioner is not convicted in any criminal case, no disqualification is attracted.

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It is submitted that, although the petitioner has not disclosed pendency of criminal case in the attestation form, however, since there is no conviction in any criminal case, respondents cannot unilaterally take any decision adversely affecting his claim. It is submitted that the petitioner has in fact disclosed pendency of criminal case at the stage of filling up character and antecedents verification form and also by way of an affidavit. It is vehemently submitted that the pendency of a criminal case has to be considered vis-a-vis effect of suppression with respect to the post for which recruitment process was undertaken. It is submitted that no offence of moral turpitude is proved and hence the impugned decision is arbitrary and illegal. He invited our attention to clause 11 of the Classification and Recruitment Regulations, 2005 and submitted that only conviction in a criminal case is the factor for disqualification. To buttress his submissions, the petitioner has relied upon the judgment in the matter of **Pawan Kumar Vs. Union of India and another, (2023) 12 SCC 317**.

4. Perusal of impugned communication dated 12/12/2022 reveals that while submitting the attestation form, the petitioner has not stated anything against column No.11 (a) and (b), which required him to disclose particulars of any pending criminal case and the details

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about his arrest, prosecution and detention. He has left these columns blank.

5. Further it is to be noted that the form begins with a warning which is reproduced below :-

“WARNING – The furnishing of false information or suppression of any factual information in the Attestation form would be a disqualification and is likely to render the candidate unfit for employment under the Board/Company.”

6. The impugned communication shows that respondent Nos.3 and 4 have conducted enquiry about credentials of the petitioner and it was revealed that a criminal case is pending against him at Sillod City Police Station, bearing C.R.No.83/2015 for the offences punishable under Sections 302, 304(B), 498(A), 323, 506 read with Section 34 of the Indian Penal Code and he was arrested in this case. In view of the fact that the petitioner has not disclosed this criminal case while submitting attestation form, respondents have concluded that he has suppressed this material fact and have arrived at a decision to cancel his selection.

7. On considering the contentions of the petitioner and documents on record, we are of the view that the decision of the

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respondent Nos.3 and 4 to cancel the petitioner's candidature on account of non-disclosure of a criminal case, that too a case for offence punishable under Sections 302, 304(B), 498(A), 323, 506 read with Section 34, is just and proper. Pertinent to note, clause 11(a) and (b) of the Attestation Form required the candidate to give precise answers as to whether the candidate has been arrested, prosecuted etc. and as to whether any case was pending against him in any court of law. Petitioner did not mention any response against columns 11(a) and (b) and kept the response place blank. Petitioner was aware about pendency of the criminal case against him and therefore, we are of the considered opinion that the non-disclosure of a criminal case amounts to *suppressio veri* and *suggestio falsi*.

8. Reliance placed on the judgment of **Pawan Kumar Vs. Union of India** (supra) is misplaced since it was a case in which the criminal complain/FIR was registered post submission of the application form and further that the case was of a trivial nature not involving moral turpitude, as spelt out in paragraphs 6 and 17 of the said judgment. In the instant case, the serious offence under Sections 302, 304(B) and other sections of the Indian Penal Code was pending

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against the petitioner and the same was not disclosed in the Attestation Form.

9. The position of law is settled as laid down in the authoritative pronouncement of the Supreme Court in **Avtar Singh Vs. Union of India, (2016) 8 SCC 471** and also reiterated in **Pawan Kumar Vs. Union of India** (supra) that a person who has suppressed material information or made false declaration has no unfettered right of seeking appointment or continuity in service.

10. In the light of abovementioned factual and legal aspects, the writ petition deserves to be dismissed at the threshold and the same is dismissed accordingly. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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