

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2909 OF 2024**

- 1. Shri Sagar Vijay Hire,**
Age: 31 years, Building Njo. 194,
Room No. 7533, B-Wing, Second Floor,
Kannamwar Nagar No. 2, Vikhroli
(East), Mumbai 400 083.
- 2. Kum Pranita Janardhan Kasare,**
Room No. 106, First Floor,
A-Wing, Rajgruh Building, 20th Road,
Near Sarnath Buddha Vihar,
Khar (West), Mumbai 400 052.

...Petitioners

~ versus ~

SHEPHALI
SANJAY
MORMARE

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SANJAY
MORMARE
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- 1. The State of Maharashtra,**
- 2. The Hon'ble Deputy Registrar (Civic Banks),**
O/o the Commissioner and Registrar
of Co-operation Cooperative,
State of Maharashtra, 2nd Floor,
New Central Building,
Pune 411 001.
- 3. The Hon'ble Minister for Co-operation,**
Government of Maharashtra,
CS Main Building, Mantralaya,
6th Floor, Madame Cama Road,
Mumbai 400 032.
- 4. The Hon'ble District Deputy Registrar,**
6th Floor, Malhotra House,
Opposite G.P.O, Fort,
Mumbai 400 023.

5. **The Naval Dockyard Co-operative Bank Ltd.,**
Through its Secretary Shri Pithabas Banchanidhi Panigrahi, Admiral Superintendent, Naval Dockyard, Mumbai 400 023.
6. **The Naval Dockyard Co-operative Bank Ltd.,**
Through its Resident **Rear Admiral KP Arvindan,** Admiral Superintendent, Naval Dockyard, Mumbai 400 023.
7. **Shri SR Ippakayala,**
8. **Kum NU Murudkar,**
9. **Smt PY Mhatre,**
10. **Shri AS Advilkar,**
11. **Shri SV Ghadshi,**
12. **Kum KR Devkar,**
13. **Smt P Chaudhary,**
14. **Smt P Chaudhary,**
15. **Shri AK Rathod,**
16. **Shri VB Singh,**
17. **Kum AA Kadu,**
18. **Shri RS Singh,**
19. **Smt Anjali Singh,**
20. **Shri PY Dodkulkar,**
21. **Shri VV Khaade,**
22. **Shri RJ Koli,**
23. **Kum PK Chaudhary,**
24. **Smt R Talekar,**
25. **Shri NC Sargar,**
26. **Shri MK Shaikh,**

27. Shri AR Shirdhankar,
28. Shri AS Gokshe,
29. Shri Niranjana Sabat,
30. Shri MS Gosiya,
31. Shri SP Mhadik,
32. Shri VJ Lokhande,
33. Shri GP Bhopi,
34. Shri MJ Gurav,
35. Shri NK Yadav,
36. Mrs NR Kavanekar,
(S. NO. 7 to 36 working at The Naval
Dockyard Co-operative Bank Ltd.)

...Respondents

APPEARANCES

For the Petitioner	Mr Pritam Prakash Runwal.
For Respondents Nos. 1 to 4- State	Ms OA Chandurkar, Addl. GP, with Priyanka B Chavan, AGP.
For Respondents Nos. 5 & 6	Mr Aditya Khanna.
For Respondents Nos. 7 to 18, 20 to 24, 26, 27, 29, 30 and 32 to 35	Mr Rahul Karnik.

CORAM : SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ

RESERVED ON : 17TH SEPTEMBER 2025.
PRONOUNCED ON : 29th SEPTEMBER 2025.

JUDGMENT (Per Suman Shyam, J):-

1. The two Writ Petitioners have approached this court by filing the instant Writ Petition, *inter alia* calling into question the

selection and appointment of the private Respondent Nos 7 to 36 and also assailing the continuance of the Respondent No 5 as the Secretary of the Respondent No 6 bank participated in the recruitment process initiated by the Respondent No. 6 Naval Dockyard Co-operative Ban Ltd, Mumbai, with the following prayers:

“(a) That this Hon’ble Court be pleased to issue a Writ of mandamus or any appropriate writ in the nature of mandamus or order or direction under Article 226 of the Constitution of India, 1950, quashing and setting aside the recruitment process conducted pursuant to the Advertisement of recruitment process published in “Aapla Mahanagar” dated 30.01.2020 whereby inviting the applications for filling up the posts of Clerks (**19 posts**) and Peon (**06 posts**) and **02 posts** of Driver without any publication;

(b) That this Hon’ble Court be pleased to issue a Writ of mandamus or any appropriate writ in the nature of mandamus or order or direction under Article 226 of the Constitution of India, 1950, to **terminate services of the individuals (Respondents 7 to 35) illegally appointed by the Respondent No.6 whereby by violating the Statutory orders** and thereby be pleased to direct the Respondents to conduct the fresh recruitment process by appointing the reputed recruitment agency like institute of Banking Personal selection or any other independent agency recommended by RBI **by adopting proper procedure as laid by the Government of Maharashtra;**

(c) This Hon’ble Court be pleased to issue a Writ of Certiorari or any appropriate writ or order or direction in the nature of certiorari directing the Respondent No. 4 to terminate the candidature of Respondent No. 5 from their elected post as per DOP&T OM dated 27.02.2020;

(d) Any other and further orders as this Hon'ble Court may deem fit, proper and necessary in the facts and circumstances of the case;

(e) Costs of this petition be provided for.”

2. The facts of the case, in a nutshell, are that the Respondent No. 6 had published an advertisement notice in the Marathi Local Newspaper “Aapla Mahanagar” dated 30th January 2020, inviting applications for filling up 19 posts of Clerks and 6 posts of Peons. In response to the said advertisement, the Petitioners, along with other eligible candidates, had submitted their candidature. The recruitment process consisted of written test and oral interview. After the selection process was concluded, the private Respondents Nos. 7 to 36 were selected and were consequently appointed against the respective posts. According to the Petitioners, the Respondents have failed to adhere to the Government Guidelines applicable to the bank while conducting the recruitment process and that the reservation policy of the State has not been followed while making the recruitment.

3. The Respondents Nos. 5 and 6, who are the contesting Respondents in this case have filed Reply, *inter alia*, questioning the maintainability of the Writ Petition. In their reply, Respondents

Nos. 5 and 6 have controverted the averments made in the Writ Petition on merits while maintain the stand that the Writ Petitioners, being the unsuccessful candidates who have having failed to secure the cut off marks in the selection process, do not have any right to challenge the appointment of the private Respondents. The statements made in paragraph 18 (xiv) of the Reply would relevant for this case and, therefore, the same are being reproduced hereinbelow for ready reference:-

“18 (xiv) In response to the said Advertisement, the Bank had received 1550 Application for the said posts. The Bank had accordingly issued 1458 call letters to the eligible candidates out of which 1140 candidates attended the written examination. The Petitioners herein were also issued the Call Letters and they had attended the Written Examination, as scheduled. The copy each of the Call Letter issued by the Respondent No. 5 and 6 Bank to each of the Petitioners herein are annexed as Exhibit D colly to the Petition at page No 39 and 40, respectively. The Written Examination for the recruitment of 19 clerks was conducted on 1.3.2020 from 15.30 hours to 16.30 hours at IES, Raja Shivaji Vidyasankul, Sir Bhalchandra Road, Hindu Colony, Dadar East, Mumbai - 400014. The examination and evaluation of the test paper was done by the School Administration on 1.3.2020. The passing marks for the written examination conducted by the Bank for recruiting the candidates was fixed at 50 (Fifty) %. Based on the marks obtained by the candidates, the Bank had prepared the merit list of the candidates who had appeared for the written test. There were 58 candidates who got marks over 30 (that is to say over the prescribed passing percentage of 50%). Both the Petitioners had failed the Written Test conducted by the Bank for having secured less than 30 marks in their respective Written Test, that is less than the bench mark. Petitioner No 1 had

secured 18 (Eighteen) marks and Petitioner No 2 had secured -3 (Minus Three) marks. These Respondents crave leave to refer to and rely upon the Marksheet / Results of the Petitioner, in the Written Test conducted, as and when produced. The names of the eligible candidates who had passed the written examination conducted by the Bank, had secured marks over the prescribed passing percentage of 50% results, and who were qualified for the interview, was published Apla Mahanagar Newspaper on 5.3.2020. The said candidates were called for the Interview which took place on 11.3.2020 and 12.3.2020 at 'The Naval Dockyard Co-operative Bank Limited, Near Naval Transport Pool Extension Counter Talwar Camp, Next to Budhwar Park, Wood House Road, Colaba, Mumbai - 400005. For the said interview, 56 candidates out of 58 candidates appeared. After the interview, 19 candidates who were found to be qualified and eligible were selected, and were issued Appointment letter. The said 19 selected candidates were appointed on probationary basis, were given induction training and after the period of six months had again appeared for re-examination, for the purpose of permanent appointment for the said posts of the Respondent No 5 and 6 Bank, as per the recruitment policy. The process for recruitment of the peons however was interrupted owing to Covid 19 pandemic lockdown, however, after relaxation in the restrictions, the online interview of the eligible candidates was conducted from 5.10.2020 to 9.10.2020. Accordingly, the eligible candidates were selected. The communications and records of the Respondent No 5 and 6 Bank, in respect of recording of details and information entailed and ensued for the subject matter recruitment process, viz i) Communication and Record dated 1.2.2020, ii) 25.2.2020, iii) 3.3.2020, iv) 4.3.2020, v) 12.3.2020, vi) 7.7.2020, vii) 10.9.2020 and viii) 14.10.2020 clearly establishes the fact that the recruitment process of the candidates was conducted by the Respondent No 5 and 6 Bank in absolute just, equitable and fair manner, in strict accordance with the Recruitment policy and in terms of the Rules and Byelaws of the Bank. The Bank has thus made recruitment after following the recruitment rules and policy.”

4. The Writ Petitioners have not filed any Rejoinder to the Reply.

5. The primary contention of Mr. Runwal, learned counsel for the Writ Petitioners is that the recruitment process stood vitiated due to non-adherence to the State Government Guidelines. Moreover, the Reservation Policy of the State was flouted by the Bank while conducting the recruitment process.

6. By referring to the order dated 15th February 2023 passed by a co-ordinate Bench (KR Shriram and Rajesh S Patil, JJ) in Writ Petition No. 5162 of 2022, Mr Runwal, has further argued that the irregularities in the recruitment process stood well established from the observations made by the Division in the said order. Since the selection process has been found to have been vitiated on account of serious irregularities and/or illegalities, the appointment of the Respondent Nos 7 to 36 be set aside and a direction be issued by this Court for holding a fresh recruitment process for filling up those posts.

7. Mr. Aditya Khanna, learned counsel for Respondent No. 5 and 6, while inviting our attention to the statements made in the

Affidavit in Reply, on the other hand, submits that both the Petitioners have failed to secure the minimum cut-off marks, as a result of which, they were not selected. Having participated in the recruitment process, it was not open for the Petitioners to question the legality and validity of the selection process in inasmuch as such a plea would be hit by the doctrine of estoppel. In support of his above argument, the learned counsel has placed reliance on a decision of this Court rendered in the Civil Writ Petition No. 923 of 2021, whereby, it was held, by referring to several judicial pronouncements including the decision of the Hon'ble Supreme Court in the case of *Madan Lal & Ors vs State of Jammu & Kashmir & Ors*¹ to contend that candidates, who have appeared in the selection process without raising any protest, cannot turn around and question the validity of the same on the ground that the process is vitiated by irregularities.

8. Supporting the above arguments, the learned counsel for the private Respondents Nos. 7 to 36 Mr. Rahul Karnik, has argued that the Petitioners have failed to make out any case on merits. Moreover, his clients having been appointed in the year 2020-21

¹ 1995 (3) SCC 486.

pursuant to a valid selection process. They already rendered service for more than 4 years and are supporting their families. Therefore, it would be highly inequitable for this Court to interfere with their appointment orders at this stage, that too on the basis of vague and un-substantiate plea raised in the Writ Petition.

9. Mr Chandurkar, learned AGP appearing for Respondents Nos. 1 and 2-State has argued that the State of Maharashtra does not have any investment in the Respondent No. 6-Bank and, therefore, the Reservation Policy of the Government would not be applicable in case of recruitment conducted by the Bank. He has also submitted that the Writ Petition is liable to be dismissed as not maintainable.

10. As has been noted here-in above, the Respondent Nos 5 & 6 have filed reply categorically stating that the Writ Petitioner had participated in the selection process but had failed to obtain the minimum cut -off mark as a result of which they were not appointed. Such assertion of the Respondent No 5 & 6 has not been denied or disputed by the Writ Petitioners. If that be so, it is apparent that the Writ Petitioners do not have any right that can be enforced in this Writ Petition. Since, the Writ Petitioners had failed

to qualify in the selection process, hence, the question of this court interfering with the orders of appointments of the private Respondents at the instance of the Writ Petitioner would also not arise in the eyes of law.

11. Upon examining the materials on record, we also find that after the recruitment process was concluded and the appointment orders were issued to the successful candidates, a shareholder of the Bank, viz., Girish Chudasama, had approached this Court by filing Writ Petition No. 5126 of 2022 questioning the validity of the recruitment process of 19 Clerks and 6 Peons. It was the case of the Petitioner in Writ Petition No. 5126 of 2022 that for the posts of 19 Clerks advertised by the Bank, 20 vacancies have been filled up and in respect of 6 posts of Peons, 8 vacancies have been filled up. After going through the records, this Court had passed Judgment dated 15th February 2023 disposing of the Writ Petition by declining to interfere with the recruitment process on the ground that the Writ Petitioners therein did not have any personal stake. It appears that after the Judgment dated 15th February 2023 was passed, the present Writ Petition has been filed with the prayers, as noted above. The learned counsel for Respondents Nos. 5 and 6

have strenuously argued that the present Writ Petition has been filed with a design to cause embarrassment to the Bank by the some persons having a vested interest, who had earlier tried to scuttle the recruitment process by filing Writ Petition No. 5126 of 2022.

12. Having regard to the cumulative facts and circumstances of the case, we find sufficient force in the submissions of the learned counsel for the Respondent Nos 5 & 6. From the materials available on record, we do not find any explanation as to why the Writ Petition has been instituted in the year 2024 although the recruitment process was concluded in the year 2020. By that time, the private Respondents were not only appointed but they also started discharging their duties. Therefore, in our view, the Writ Petition is liable to be dismissed on the ground of un-explained delay and laches on the part of the Petitioners as well.

13. Be that as it may, on merits also, although the Petitioners have claimed that they had cleared the test by securing the cut-off marks, there is nothing on record to substantiate such plea. On the contrary, from the Reply filed by Respondents Nos. 5 and 6, it is

established that the Petitioners have failed to secure the minimum cut-off marks.

14. It is not in dispute that the Petitioners had participated in the selection process without raising any protest as regards the procedure adopted by the bank for conducting the recruitment process. It was only after they had failed to obtain the minimum cut-off marks that they have approached this Court that too, after un-explained delay of nearly four years. If that be so, in view of the law laid down in the case of *Madan Lal & Ors (Supra)* it would not be open for the Writ Petitioners to question the validity of the selection process.

15. The Petitioners have also failed to substantiate their plea that the recruitment process stood vitiated either on account of failure to adhere to the Government Guidelines or the Reservation Policy. During the course of hearing, the learned Counsel for the Writ Petitioners has also not advanced any argument as regards prayer No (c) in the Writ Petition.

16. Under such circumstances and in view of the observations made hereinabove, we do not find any good ground to entertain

this Writ Petition. Consequently, the Writ Petition is held to be devoid of any merit. The same is accordingly, dismissed.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)