

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 19518 OF 2024

Makarand Vijay Pujari
Age : 27 Years, Occupation : Service,
R/o: 502, Signia High, Magathane,
Borivali East, Mumbai – 400066 ...Petitioner

Versus

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1. The State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai – 32
2. The Commissioner,
Panvel Municipal Corporation,
Swami Nityanand Road,
Opposite Gokhale Marriage Hall,
Taluka Panvel, Navi Mumbai,
Maharashtra – 410206
Email : panvelcorporation@gmail.com
3. The Deputy Commissioner,
(Headquater),
Panvel Municipal Corporation,
Swami Nityanand Road,
Opposite Gokhale Marriage Hall,
Taluka Panvel, Navi Mumbai,
Maharashtra 410206
Email : panvelcorporation@gmail.com
4. Ratnamala Kantu Pawar,
C/o: Panvel Municipal Corporation,
Panvel Municipal Corporation,
Swami Nityanand Road,
Opposite Gokhale Marriage Hall,
Taluka Panvel, Navi Mumbai,
Maharashtra 410206
Mobile : 7350417678
Email : ratnamala.edu@gmail.com

Mr. Vinayak Hon, Sr. Advocate a/w Mr. Suraj Gadkari, Advocate for the Petitioner.

Mr. P.P. Kakade, Addl. G.P. a/w Ms. Nisha Mehra, AGP for the Respondent No.1/State.

Mr. S.V. Gavand, Advocate for the Respondents/Corporation.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

RESERVED ON : 11th MARCH, 2025

PRONOUNCED ON : 2nd APRIL, 2025

JUDGMENT (PER : RAVINDRA V. GHUGE, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth Prayer Clauses (B) and (C), as under :-

B. Issue a writ of certiorari or writ in the like nature and quash and set aside the impugned decision/communication/order dated 11.10.2024 passed by Deputy Commissioner (Headquater), Panvel Municipal Corporation.

C. Issue a writ of mandamus or writ in the like nature directing the respondents to grant appointment order on the post of Women and Child Welfare Officer, Group in the establishment of Panvel Municipal Corporation in view of the advertisement bearing No. PMC/ Establishment/2923/Pra. Ka. 13/662/23 dated 12.07.2023 published by Panvel Municipal Corporation through its Commissioner.

3. On 14th February, 2025, when the submissions of the learned Advocates for the respective sides had concluded, we had passed the following order :-

“1. We have extensively heard the submissions of the learned Senior Advocate Mr. Vinayak Hon, with Mr. Suraj Gadkari and Vignesh Ashokan, for the Petitioner and the learned Advocate Mr. Gavand, on behalf of the Corporation. The oral submissions have been concluded.

2. We have three queries on which the learned Advocate Mr. Gavand would take instructions in due consultation with the Commissioner of the Municipal Corporation. These three queries are as under:

a) Whether the Corporation is accepting the candidature of those Applicants whose LLB qualifications are two years LLB General Graduate.

b) Whether the Corporation is uniformly sticking to the acceptance of the applications only if the candidate has passed the three years or five years LLB course.

c) The extension of the cut-off date for making application, which earlier was 17th July, 2023, was extended to 15th September, 2023. The Mumbai University declared its LLB results on 30th August, 2023, thereby giving advantage to the students who had time between 31 August, 2023 to 15th September, 2023 to file their applications, on the basis of such results. In which case, whether this advantage can be given to the present Petitioner?

3. Since the learned Senior Advocate for the Petitioner has a personal difficulty, on his request, we

are placing this Writ Petition at 2.30 P.M. on 24th February 2025.”

4. By the impugned communication dated 11th October, 2024, the Petitioner was informed by the Corporation that his representation seeking consideration for the post of Women and Child Development Officer, does not deserve to be considered for the 14 reasons that are set out in the impugned order. It is in the above backdrop that we have considered the extensive submissions of the learned Advocates on 14th February, 2025 and 11th March, 2025.

5. The Panvel Municipal Corporation Service (Service Entry and Service Classification) Rules, 2022, were introduced on 10th October, 2022. Appendix–II to the said Government Resolution, specifies the post and the requisite qualifications for appointment to the said post. Item No.41 pertaining to Women and Child Development Officer’s Post falling in Class-II, Administrative Service, requires the following prerequisite qualifications.

१३. महिला व बाल कल्याण विभाग			
४१	महिला व बाल कल्याण अधिकारी (वर्ग-२, प्रशासकीय)	नामनिर्देशन/ सरळसेवा १००%	अ) मान्यताप्राप्त विद्यापीठाची समाजसेवा/विधि/ मानसशास्त्र/ गृह विज्ञान किंवा पोषण विज्ञान शाखेमधील पदवी परीक्षा उत्तीर्ण ब) शासकीय/निमशासकीय संस्थांमधील प्रशासकीय

	सेवा)		कामकाजाचा ३ वर्षांचा अनुभव आवश्यक. क) मराठी भाषेचे ज्ञान आवश्यक आहे.
		प्रतिनियुक्ती	नामनिर्देशन/सरळसेवाने पद उपलब्ध होईपर्यंत राज्य शासन/स्थानिक स्वराज्य संस्थेच्या सेवेतील समकक्ष पद किमान ३ वर्षांपासून धारण करणाऱ्या अधिकाऱ्यांमधून प्रतिनियुक्तीने नियुक्ती करता येईल.

6. What is relevant for deciding the present case of the Petitioner, is the required qualification of having a Degree in the law faculty, knowledge of Marathi language and three years experience in any government or semi government institution in the Administrative Capacity.

7. There is no dispute that the Petitioner can read and write in Marathi and has sufficient knowledge of the language. Insofar as having three years Administrative experience, the Executive Director of Quest - Center for Innovation, Planning and Evaluation, Tribal Development Department (TDD), Government of Maharashtra, under the Tribal Research Training Institute (TRTI), Pune, has issued a certificate stating that the Petitioner was working as a Consultant for Education with Quest, from 2nd July, 2020 to 30th November, 2022 and as a Joint Executive Director (In-charge) from 1st December, 2022 to 13th October, 2023. The said certificate

indicates experience of 37 months and 13 days in his capacity as a Consultant and lastly as a Joint Executive Director (In-charge) from 1st December, 2022 to 13th October, 2023. So also, the Petitioner had worked with the Government of Maharashtra under the Chief Minister's Fellowship Program, 2019 from 1st August, 2019 to 30th June, 2020, for about 11 months.

8. The appointment letter issued by the Unisec Management Services Pvt. Ltd., which had recommended the appointment of the Petitioner as a 'Consultant for Tribal Education' with the Tribal Research and Training Institute (Client of Unisec Management Services Pvt. Ltd.), indicates that a relationship between Unisec and the Petitioner was that of 'a contract of services for a fixed period'. In Clause No.10, the Petitioner was made aware that his appointment was purely as a Consultant and no Employer-Employee relationship would exist between the Petitioner and Unisec Management Services Pvt. Ltd. The nature of duties performed by the Petitioner with the Tribal Research and Training Institute as a Consultant for Tribal Education, would indicate that the Petitioner had gathered the experience in Administration.

9. The bone of contention before us is on a limited issue. The advertisement clearly indicates that a candidate having a graduation degree (passed) in the faculties mentioned therein, would entitle him/her to be considered for appointment.

10. The Petitioner took admission for LL.B. Course in 2021. He passed the first three semesters and appeared for the fourth semester in April-May, 2023. The examination for the fourth semester took place in May-2023. It is an admitted position that when the Petitioner applied for the post, he has stated in his application form that he is a graduate of 2017. He didn't specify as to which faculty. He mentioned a bunch of courses.

11. His fourth semester result was declared on 30th August, 2023, which is much after he filled in the application form. The cut-off date for making the application was 17th July, 2023, which was subsequently extended to 15th September, 2023. The Mumbai University declared the LL.B. result on 30th August, 2023 and therefore, though the Petitioner did not have the LL.B. second year marksheet with him, when he applied for the post prior to the earlier cut-off date, he had recieved the fourth semester marks list by which

he acquired the 2nd year result before the extended last day of 15th September, 2023.

12. Though these facts are not pleaded in the Petition, these are conveyed to us on the basis of the record, during the course of the hearing in this matter. The impugned order indicates that the Petitioner had not mentioned in the application form that he had the LL.B. General (first two years of the three years course) Certificate. The obvious reason is that his result of the fourth semester was declared by the University on 30th August, 2023 and, therefore, he could not have mentioned anything about his LL.B. Course since the result was not declared by the University when the Petitioner entered his application prior to the first cut-off date 17th July, 2023.

13. The Petitioner could have filled in one more form after the last date was extended upto 15th September, 2023 because the University declared his fourth semester result on 30th August, 2023. However, he did not do so and pursued his only application form filled in earlier wherein he has mentioned his qualification as being a holder of the Bachelors Degree. He did not specify which faculty. The required qualifications mentioned in the advertisement indicate

that a candidate having a degree certificate in **Social Science/Law/Psychology/Home Science/Nutrition Science**, was eligible. As such, the form of the Petitioner, as is available in the records, has to be rejected since the Petitioner has not mentioned that he has the Law Graduation Degree, which is commonly known as Bachelor of Laws.

14. In the fact situation as above, apparently the application form of the Petitioner considering the details mentioned therein, could not have been entertained. Be that as it may, even if this aspect is to be ignored and it is to be presumed that after filling in the form and before the extended last date for tendering the forms, the Petitioner has passed the fourth semester, it is the contention of the Corporation that a Graduation Degree in Laws was never meant by the Corporation to mean 'the passing of the first two years of the LL.B. Course'. It is contended that even if the argument of the Petitioner is taken at its best, it would mean that he has a General Degree in Law, which means he has passed the first two years. This was neither prescribed in the advertisement, nor expected by the Corporation since it had specifically mentioned a Graduation Degree in Law from a recognized University.

15. The Petitioner has placed on record a degree certificate of Bachelor of Arts, which was also not prescribed as a requisite qualification in the advertisement. The Bar Council of India has set out below Part-IV (Rules of Legal Education) under Clause – 2(VI), which reads as under :-

*“(vi) “**Bachelor degree in law**” means and includes a degree in law conferred by the University recognized by the Bar Council of India for the purpose of the Act and includes a bachelor degree in law after any bachelor degree in science, arts, commerce, engineering, medicine, or any other discipline of a University for a period of study not less than three years or an integrated bachelor degree combining the course of a first bachelor degree in any subject and also the law running together in concert and compression for not less than a period of five years after 10 + 2 or 11 + 1 courses as the case may be.”*

16. It is, therefore, obvious that when the Corporation expected a Bachelor’s Degree in Law as a requisite qualification, it meant a degree in law which is a discipline of a University for a study period of not less than three years or an integrated bachelor’s degree combining the Course of a first Bachelor’s Degree in any subject and also the law running together in concert and compression for not less than a period of five years after 10 + 2 or 11 + 1. It is not the case of the Petitioner that his degree in Arts was in concert with his degree in law. His graduation degree was an

independent degree received by him as in 2017. Thereafter, he independently applied for the three years LL.B. Degree Course in 2021.

FALSE STATEMENT

17. The Corporation has taken a specific stand that it has not entertained any application made by a candidate having passed the first two years of the three years Law Degree Course. It is brought to our notice by the Corporation that the Petitioner made a false statement in his application form which is placed before us across the bar wherein, on internal Page No.5 (8 Pages Form), he has stated his graduation details as under :-

Qualification Degree

*Passed degree examination in Social Service/Law/
Psychology/Home Science.*

The Institute from which he acquired the degree is mentioned as Ramnarain Ruia College and the date of passing of the graduation course is 8th August, 2017.

18. The Corporation, therefore, contends that the Petitioner orchestrated his call letter for the examination, by making a false

statement in order to make it appear as if he satisfies the requirement of the graduation degree. Hence, his form was accepted and he appeared for the written examination. Actually, on 8th August, 2017, he only had a degree of Arts which was not the prescribed qualification and he falsely stated that he had passed degree examination in Social Service/Law/Psychology/Home Science. He clearly mentioned this in his application form.

19. The Petitioner has not controverted the above aspects and could not have possibly controverted them, since it is a print out of his application form, which is placed before us by the Corporation. While mentioning the graduation degree received on 8th August, 2017, apparently, the Petitioner did not have any of the degree certificates as mentioned by him in his application form. In fact, he applied for the three years LL.B. Degree Course by taking examination in 2021.

20. In *Dolly Chhanda V/s. Chairman, Jee and Others, (2005) 9 SCC 779*, the Hon'ble Supreme Court concluded that the general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date

fixed for such purpose either in the admission brochure or in the application form. The last date in the case before us, as mentioned in the advertisement, was 17th July, 2023. Hence, the Petitioner filled in his form prior to 17th July, 2023 and falsely mentioned that he had passed the degree examination in Social Service/Law/Psychology/Home Science. The Hon'ble Supreme Court has held in *Kishore Samrite V/s. State of U.P. & Ors*, AIR 2012 SC (Supp) 699, *Bhaskar Laxman Jadhav & Ors. V/s. Karamveer Kakasaheb Wagh Education Society & Ors.*, AIR 2013 SC 523, *Satish Chandra Yadav V/s. Union of India*, (2023) 7 SCC 536 and *Ravindra Kumar V/s. State of Uttar Pradesh*, (2024) 5 SCC 264, that if a litigant's claim is founded on false and untrue narration, no relief should be granted to him and his Petition should be dismissed.

21. In *Maharashtra Public Service commission V/s. Sandeep Shriram Warade*, AIR 2019 SC 2154, the Hon'ble Supreme Court held that it is the Employer who is best suited to decide the requirements which a candidate must possess according to needs of the Employer and the nature of the work. In no case, can the Court sit in the chair of the appointing authority in the garb of judicial review and decide what is best for an Employer by interpreting the

conditions of the advertisement contrary to the plain language of the same. Same is the view in *Punjab National Bank V/s. Anit Kumar Das*, AIR Online 2020 SC 848.

22. In *Sanjay Kumar Manjul V/s. Chairman, UPSC and Others*, 2006 INSC 608, it was held that the statutory authority is entitled to frame statutory rules laying down terms and conditions of service, as also the qualifications essential for holding a particular post. It is only the authority concerned who can take the ultimate decision. It is well settled that the Court, while exercising jurisdiction under Article 226 or 32 of the Constitution of India, ordinarily, should not direct an Employer to prescribe a qualification for holding a particular post.

23. It is in the light of the aforesaid law enunciated by the Hon'ble Supreme Court, that we do not intend to conclude that the declaration of the Petitioner's 2nd year LL.B. exam from a three years degree course, could be treated as a prescribed qualification by the Corporation. Suppression of facts and making of a false statement by the Petitioner, is more the reason why this Court should not exercise discretion in favour of the Petitioner.

24. So also, no where has the Petitioner disclosed in the application form that he did not even have an LL.B. Degree Certificate or a Degree Certificate in Sociology, Psychology, Home Science or Nutrition Science. It has to be kept in mind that the post for which the Petitioner was considered, was Women and Child Welfare Officer, Class-II. Had the Petitioner mentioned in the application form, truthfully, that he had a Degree Certificate in Arts, his application form would have been rejected since that was not the required qualification.

25. In view of the above, this **Writ Petition is devoid of merits and stands dismissed. Rule is discharged.** We could have imposed heavy costs on the Petitioner. But since he is making efforts for seeking employment, that we have refrained from doing so.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)