



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

WRIT PETITION NO. 5809 OF 2024

(Sujit s/o Rajesh Rawat vs. State of Maharashtra and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. S.D.Chande, Advocate for petitioner.
Mr. N.R.Patil, AGP for respondent Nos.1 to 4.
Mr. R.S.Thenge, Advocate for respondent No.5.

CORAM : AVINASH G. GHAROTE & ABHAY J. MANTRI, JJ.

DATE : JANUARY 15, 2025

1) Though Mr.Chande learned Counsel for the petitioner raises a plea of malafide on the part of the interview committee in the matter of awarding viva-voce marks, on a query being put to him, as to whether the members of the committee were made party in person before the learned Maharashtra Administrative Tribunal (M.A.T.) in O.A.No.982/2023 and allegations of malafide were made against them, he answers in the negative.

2) A perusal of the impugned judgment dated 05/08/2024 passed by the M.A.T. would indicate that the members of the interview committee have not been made as party in person. A perusal of the O.A.(page 73) would also indicate that there are no personal allegations against the committee members, this would categorically indicate to us that the allegation of malafide which are now being sought to be raised for the first time against members of the interview committee, which cannot be so permitted to be raised. The contention raising allegation of malafide against the members of the committee, is therefore rejected.

3) The next ground raised by Mr.Chande, learned Counsel for the petitioner is of arbitrariness. To consider this, it is necessary to record the short background of the petition. The petitioner as well as respondent No.5 had appeared for the post of 'Police Patil', which was advertised in terms of advertisement No.79/2023 on 27/04/2023 (page 40). In the written examination the respondent No.5 secured 51 marks, whereas the petitioner secured 57 marks. In the viva-voce before the committee, the petitioner secured 12 out of 20 marks, whereas the respondent No.5 secured 19 out of 20 marks, the total thus coming to 69 marks for the petitioner and 70 for the respondent No.5. This is what has been questioned before the learned M.A.T. by way of O.A.No.982/2023 which by its judgment 05/08/2024 has dismissed the same.

4) Mr.Chande learned Counsel for the petitioner submits that there is an arbitrariness on the part of the committee, in the matter of awarding viva-voce marks. He further contends that the allotment of 20 marks for viva-voce, is contrary to the mandate by the Hon'ble Apex Court in **Ajay Hasia and others vs. Khalid Mujib Sheravardi (1981) 1 SCC 722;** para 19 which hold that allocation of more than 15% marks of the total marks for the oral interview would be arbitrary and unreasonable and would be liable to be struck down as constitutionally invalid. He further submits that the committee has erred in allotting marks to the respondent No.5 and therefore, the selection of respondent No.5 ought not to be accepted and this court needs to interfere. He also submits that the R & P needs to be called for the purpose of verifying the marks allocated.

5) What is necessary to note is that the advertisement dated 27/04/2023 for the post of 'Police Patil', itself indicated the nature of the examination to be held and the marks to be awarded. There were in all total 100 marks out of which 80 marks were for the written examination and 20 marks for viva-voce (oral interview). The petitioner accepting this condition in the advertisement, participated in the examination in which he secured 57 marks in the written examination. The petitioner went further and participated in oral interview before the committee without any protest and subsequently is learnt to have awarded 12 marks in the oral interview making the total number of marks secured by the petitioner as 69. This would clearly indicate that the plea which is now being raised regarding the allocation of marks for oral interview, is clearly an after thought. The petitioner having already accepted the condition, participated in written as well as oral examination, now cannot be permitted to turn back and challenge the allocation of marks, specifically at a time, when the results have already been declared and petitioner find himself unsuccessful.

6) Except for an oral argument, nothing has been brought to our attention, to enable us to arrive at a conclusion that there has been any arbitrariness by the selection committee in the matter of awarding marks during the oral interview. There is also no reason spelt out on record for us to requisition the record. What is also necessary to note is that out of 422 candidate who appeared in the oral interview, (page 49 to 72) more than 125 candidates have been selected as 'Police Patil'. A mere oral assertion regarding arbitrariness, in our considered opinion, cannot form the basis for arriving at such a conclusion.

7) Though it is also alleged that clause 11 of the advertisement dated 27/04/2023 (page 43), no material is produced before us to indicate that respondent No.5 was in any manner found to be unfit for the work of 'Police Patil'. We therefore, do not see any ground or reason to interfere in the impugned judgment dated 05/08/2024. Therefore, the petition stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

KOLHE