



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

WRIT PETITION NO. 229 OF 2025

Sanjay Laxman Yuwnate Vs. State of Maharashtra and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr.S.M.Vaishnav, Advocate for petitioner.
Mr.Suraj Hulke, AGP for respondent Nos.1 and 2.
Mr.J.B.Kasat, counsel for respondent No.4

CORAM : ALOK ARADHE, CJ. AND NITIN W. SAMBRE, J.

DATE : 24th FEBRUARY, 2025.

P.C.

1. By this Writ Petition, the petitioner is seeking declaration against the respondents that he is eligible for appointment on the post of contractual Gram Sevak from Scheduled Tribe (Project Affected Person) category. The recruitment process was initiated *vide* advertisement No.1/2023 by the respondent no.3. On the basis of the certificate No.1661 dated February 15, 1982, the petitioner has sought further directions against the respondents to issue an appointment order in his favour for the post of contractual Gram Sevak from the aforesaid category.

2. The facts necessary for deciding the petition are as under:-

The father of the petitioner namely, Laxman was recognized as a project affected person and a certificate certifying that he is project affected person came to be issued on February 15, 1982 under the Maharashtra Resettlement of Project Displaced Persons Act, 1976.

3. The accrued benefits under the said certificate were not exhausted viz. the father of the petitioner never claimed an appointment as 'Project Affected Person' pursuant to Clause 4 of the said certificate which contemplates benefits thereunder can be passed on to the family members.
4. As a sequel of above, in view of the Advertisement No.1 of 2023 which was also issued for the post of contractual Gram Sevak was duly contested by the petitioner staking claim for the post of Gram Sevak from project affected person Scheduled Tribe category. After such claim of the petitioner was considered, since the petitioner has failed to produce the certificate of project affected person alongwith the application, he was not permitted to join the services though he is selected.
5. The same has given rise to a cause for this petition.
6. The contention of the learned counsel appearing for the petitioner is that the certificate in question issued in favour of the father contains a recital, which provides that in case the certificate is not exhausted, *qua* the certificate holder, the benefits thereunder are carried forward or passed on to the blood relations mentioned therein. Reliance is placed on clause 4 of the certificate of the deceased father of the petitioner, which is reproduced in paragraph no.2 of the petition.

7. According to the learned counsel appearing for the petitioner since the application for the post was submitted online, the project affected person certificate issued in favour of the father of the petitioner was duly submitted. The certificate in favour of the petitioner as that of project affected person was submitted subsequent to the application was submitted by the petitioner. According to him, in the backdrop of aforesaid clause 4 and the mandate provided under Section 6 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short, "Act of 1999"), the petitioner cannot be disqualified for the post in question. As such, it is claimed that the petitioner is entitled for the benefit of issuance of directions viz. to consider the claim of the petitioner for the said post without declaring him disqualified for want of the certificate in question.
8. As against above, the learned counsel appearing for the respondent Zilla Parishad viz. the employer claims that the guidelines, which were prescribed for the purpose of the filling-in the post, contemplate that the candidate must hold a certificate on the date of the application. According to the learned counsel appearing for respondent No.4, it is an admitted position on record that the petitioner was not holding certificate of project affected person on the date, when he applied for the post. That being so, the respondent-employer was justified in discarding the claim of the petitioner for consideration of his candidature for the post of contractual Gram Sevak. As such, he has sought dismissal of the petition.

9. We have considered the rival claims in the backdrop of clause 16.5.2 and 16.5.3 of the instructions/guidelines issued to the candidates, who are claiming selection and appointment on the post in question. Clause 16.5.2 contemplates that a candidate who intends to apply for the selection from the category of Project Affected Person must hold a certificate to that effect. The said guidelines in categorical terms have not provided that the candidate must hold and submit such certificate along with application. Rather, conjoint reading of Clauses 16.5.2 and 16.5.3 gives an understanding that it shall be open for the candidate like the petitioner to produce the certificate of Project Affected Person at the time of verification of the documents.
10. No doubt, the petitioner holds Project Affected Person certificate. However, we are equally required to be sensitive to the rights conferred under Explanation (c) of Section 6 of the Act of 1999. Said provision permits to carry forward such rights until the same are exhausted *qua* the family of the Project Affected Person. Once, the petitioner holds a certificate that of Project Affected Person, same justifies his claim that the certificate of project affected person seeking employment was never exhausted in earlier point of time. Apart from above, the petitioner along with his application has already submitted the certificate which was issued in favour of his father by the competent authority certifying that the benefits under the Act of 1999 can be availed by the father of the petitioner or the family members.

11. In such an eventuality, Clause 6.4.3 cannot be read and interpreted to the disqualification of the petitioner particularly, when he has already submitted the certificate of Project Affected Person of his father and subsequent thereto produced his own certificate to the aforesaid effect.

12. The counsel for the respondent no.4 has invited our attention to Clauses 17.9 and 17.10 of the Guidelines for Selection so as to substantiate his contention that the decision of the respondent no.1 of not permitting the petitioner to join the services post his selection is based on incorrect information supplied by the petitioner which incurs rejection of his candidature.

In the backdrop of the observations made in the foregoing paragraphs, it is apparent that the petitioner cannot be said to have furnished incorrect or false information. Rather the interpretation of Clause 16.5.2 of the Guidelines contemplates that what is required is holding of a certificate and not production of the same. The certificate of the father of the petitioner as 'Project Affected Person' still holds good and pass on the benefits thereunder to the family pursuant to the explanation provided in Clause (c) to Section 6 of the Act of 1999. As such, the said contentions are liable to be rejected.

13. In this backdrop, since it is conceded by the respondent-Employer that the petitioner was duly selected and the benefit under the certificate issued to the family of the petitioner is still not exhausted, we direct the respondent-Employer to permit the petitioner to join his services in accordance with law if he is otherwise not disqualified.

14. Let the decision taken by the respondent-Employer be communicated to the petitioner within a period of two weeks from today.
15. The writ petition is allowed in aforesaid terms and disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

(NITIN W. SAMBRE, J.)

(CHIEF JUSTICE)