

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 481 of 2017 (D.B.)

Ajitpalsingh S/o Nirmalsingh Khalsa,
Aged about 38 years, Occ. Nil
R/o Deep Villa, Sai Nagar,
Near Saibaba School, Amravati,
Tq. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of School Education and
Sports, Mantralaya, Mumbai-32.
- 2) The Maharashtra Public Service Commission,
through its Secretary, Mumbai,
having its office at 3rd floor, Bank of India Building,
Mahatma Gandhi Road, Fort,
Mumbai-400 001.

Respondents

S/Shri P.J. Mehta, A.S. Tiwari, Advocates for the applicant.

Shri A.M. Ghogre, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 6th day of December, 2017)

Heard Shri P.M. Mehta, Id. Counsel for the applicant
and Shri A.M. Ghogre, Id. P.O. for the respondents. The O.A. is
heard finally with consent of Id. counsel for parties.

2. The applicant Ajitpalsingh S/o Nirmalsingh Khalsa is claiming following reliefs in the O.A.

“(i) By way of appropriate order or direction to the respondent no.2, quash and set aside the entire recruitment process for the post of Assistant Motor Vehicle Inspector, as per advertisement nos.2/2017 and 48/2017 issued by the respondent no.2, being conducted in an illegal manner and vitiated by serious irregularities.

(ii) Or in the alternative by way of appropriate, order of directions, direct the respondent no.2 to call for the verified certificates of all the candidates who have applied for the post of Assistant Motor Vehicle Inspector with respect to 5% posts reserved for sports quota, as per advertisement no.2/2017 issued by the respondent no.2 and thereafter declare the results of the preliminary examination of such candidates.”

3. According to the applicant, the respondent no.2 has issued advertisement nos. 02/2017 and 48/2017 for the post of Assistant Motor Vehicle Inspector. The advertisement no.02/2017 was for preliminary examination which was to be conducted on 30/04/2017 and advertisement no.48/2017 is for filling it 35 posts of Assistant Motor Vehicle Inspector from sport category on the basis of result of preliminary examination. The candidates who succeed in the preliminary examination, were

eligible for filling the application form for the main examination vide advertisement no.48/2017.

4. According to the applicant, the respondent no.2 has not followed the guidelines issued by the Government of Maharashtra vide G.R. dated 1/7/2016 and therefore the entire examination conducted by the respondent no.2 is illegal.

5. The learned counsel for the applicant has invited my attention to condition no.3.8 of the advertisement no.2/2017 which was for preliminary examination. The said condition reads as under :-

3-8½ dthMk i ek.ki = ; kx; vI Y; kckcr o [kGkMwdks kR; k Jskhrby
i nkl kBh ik= Bjrks; kfo" k; h vtZl knj dj.; ki whP; k frukadkps I {ke
i kf/kdk&; kus inku dsyys i ek.ki = I knj dY; kl R; kawk ik= [kGkMw
vkj {k. kkp k ykHk ?kr k ; bY- **

6. It is the contention of the applicant that as per the G.R. dated 1/7/2016 it was mandatory for all the candidates to submit certificates in respect of sport eligibility along with the application and the said certificates were to be certified by the competent authority. This mandatory provision has not been followed. The learned counsel for the applicant invited my attention to some important clauses in the G.R. dated 1/7/2016 and the said clauses are as follows :-

^4 ¼v½ [kGkMw menokjauh vtZ dj.; ki wtp I qkkjhr rjrmhuul kj foHkkxh; mi l pkyd ; kpsdMwu [kGkP; k iæk.ki=kph iMrkG.kh d#u ?ksks vko'; d vkgs R; keGs [kGkMw menokjkus vtKl kcrp foHkkxh; mi l pkyd ; kauh dbMk iæk.ki= ; kx; vl Y; kckcr o [kGkMwdkskR; k l wxl k Bh ik= Bjrks; kckcr iæf.kr dsysy iæk.ki= tkM.ksvko'; d jkghy-**

^5 ¼viii½ [kGkMwus foHkkxh; mi l pkydkdMwu iæf.kr iæk.ki=kpk vgo ky i klr >ky; koj ; k 'kkI u fu.kz krhy fu; e dz4 vec@d@M xVkrhy l wxlZjhrk vko'; d vl yš; k dbMk vghuul kj l æf/kr inkP; k Hkjrhl kBh tkfgjkr vkY; kl vtZ djrkauk l nj iMrkG.kh iæk.ki=kph Nk; kadr ir vtKl kcr tkMkoh- vtKl kcr iMrkG.kh iæk.ki=kph ir vl Y; kf'kok; [kGkMw; k vtKpK [kGkMw l wxlZru fopkj gskkj ukgh-**

^5 ¼ix½ ; ki ks ykdI ok vk; kx rI p vU; l oZ inHkjrhl kBh l nj dk; i /nrh ykxwjkghy-*

^6 ¼viii½ [kGkMw menokjauh vtZ dj.; ki wtp ojhy l qkkjhr rjrmhuul kj foHkkxh; mi l pkyd ; kpsdMwu [kGkP; k iæk.ki=kph iMrkG.kh d#u ?ksks vko'; d vkgs R; keGs [kGkMw menokjkus vtKl kcrp foHkkxh; mi l pkyd ; kauh dbMk iæk.ki= ; kx; vl Y; kckcr o [kGkMwdkskR; k l wxl k Bh ik= Bjrks; kckcr iæf.kr dsysy iæk.ki= tkM.ksvko'; d jkghy-**

^6 ¼x½ l æf/kr foHkkxkus [kGkMw menokjkdMwu i klr >kyš; k vtKpH Nkuuh djrøGh R; kl kcr ijhf'k"V c e/khy iæf.kr iæk.ki= vl Y; kph [kk=h djkoh- rI p dbMk foHkkxkP; k l æf/LFkGkojhy

*ekfgrh'kh i MrkG.kh djkoh- R; kurjp vtzhkkl Hkjrfo"k; d i q-hy
i zbh; j kBh ik= Bjokos***

7. The learned counsel for the applicant submits that the respondent authorities have not followed the aforesaid instructions in the G.R. and therefore the applicant could not complete the examination in true sense.

8. In the reply-affidavit it has been stated by the respondent no.2 that large number of applications were received for the preliminary examination and therefore it was not possible to collect the certificates from each candidate and to check their eligibilities at the time of preliminary examination. The applicant's submission that 90% candidates do not possess verified Sports certificates has been denied by the respondents. According to the respondents, the Cut-Off marks of the preliminary examination has been fixed in such a manner that 8 to 10 times candidates were available for the main examination as per rules / procedure of the Commission and the recruitment process is being followed fairly and transparently. The applicant appeared for the preliminary examination and was unsuccessful since he did not qualify for the main examination. In fact 69,848 candidates applied for the preliminary examination and it was

practically impossible to check certificates before allowing the candidates for preliminary examination.

9. It is material to note that the applicant for the similar relief has earlier filed W.P.No.1289/2017 before the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur. In the said W.P. the applicant has prayed following reliefs :-

“(1) Issue appropriate writ, order of direction to the respondent no.1, to call for the certificate of merit and verified certificate issued by the competent authority and scrutinize the same before issuing the admission cards to the candidates claiming the 5% reservation under sport quota, so that only genuine candidates shall participate in the recruitment process and the fake candidates are eliminated out of the recruitment process before the preliminary examination.

(2) Direct the respondent no.1 to modify the advertisement no. 2/2017 dated 30/01/2017, thereby, adding a specific condition to call for the certificate of merit and the verified certificate issued by the competent authority and scrutinize the same before issuing the admission cards to the candidates claiming the 5% reservation under sports quota.”

10. The aforesaid W.P. No. 1289/2017 came to be rejected as the Hon'ble Court found that the petition was totally

premature in nature. The said Judgment was delivered on 10/4/2017.

11. Thereafter the applicant again filed Writ Petition no. 4349/2017 before the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur and claimed similar reliefs. The Hon'ble High Court of Judicature at Bombay, Bench at Nagpur vide order dated 10/07/2017 was pleased to dispose of that petition as withdrawn and the petitioner was given liberty to make suitable grievance against the employer before this Tribunal leaving all contentions upon. Thereafter the applicant has filed this petition.

12. There seems to be no change in circumstances except the fact that in meantime the applicant appeared for preliminary examination and was declared unsuccessful for competing the main examination. From the reply-affidavit it seems that as many as 69,848 candidates appeared for the preliminary examination and the applicant could not succeed and as he could not secure the cut-off marks fixed for Open Sport persons as well as for Open (General) category. It seems that the cut-off marks for Open Sport (General) category was 24, whereas the applicant got only 11 marks and therefore he was not qualified for the main examination. In the entire petition the

applicant has not even whispered on his merits nor he challenged the process whereby he got only 11 marks in the preliminary examination. In short, the applicant has not challenged the marks obtained by him in the preliminary examination and therefore the applicant, in fact, has no locus standi to challenge the process for main examination followed by the respondents.

13. So far as the clause 3.8 in the advertisement no.2/2017 which is analogous to clause no.2.8 in the advertisement no.48/2017, it will be clear that though it was necessary for the candidates to attach the certificates in the sports duly verified by the competent authority prior to filing of application in order to get reservation in sport category that itself will not mean that merely because such certificates were not filed, the respondent has committed any mistake in allowing the candidates to appear for preliminary examination. Considering the number candidates who have applied for the preliminary examination, it would be but natural that the respondents decided to verify the certificates of those candidates only who were successful or qualified for appearing for main examination. Even in the advertisement for main examination, i.e., advertisement no.48/2017, there is a clause that those who

wants to take benefit of the sport reservation, will have to attach the certificates duly verified by the competent authority. In fact the clause no.3.8 in the advertisement no.2/2017 and clause no.2.8 in advertisement no.48/2017 does not state that the application form shall be annexed with certificate of sport duly certified by the competent authority. It only states that the certificate shall be certified by the competent authority prior to filing of application form and it does not state that the application shall be annexed with such certificate. Even the plain reading of the various clauses as referred by the learned counsel for the applicant in G.R. dated 1/7/2016 makes it crystal clear that the candidates who are claiming reservation under sport category, must have obtained such sport certificates duly verified from the Deputy Director and such certificate shall be verified prior to the date of application. This is in order to avoid further complications that may arise due to validity / invalidity of the sport certificates. It does not mean that such certificates shall be annexed with the application form. In any case the G.R. has been issued to avoid complications of validity / invalidity of sport certificates and the litigation in that regards and it is the duty of the competent authority to verify those documents at the time of issuing appointment order to the candidates. The applicant has

not succeeded in the preliminary examination and therefore was not eligible for the main examination. On merits the applicant has not challenged the recruitment process though he was at liberty to do so and the only grievance of the applicant is that the guidelines in the G.R. dated 1/7/2016 was not followed. The merely on this count the applicant cannot succeed and in fact he has no locus standi to file such petition once he participated in the process of preliminary examination and was found ineligible for the examination to be conducted for the post of Assistant Motor Vehicle Inspector as per advertisement no.48/2017. I, therefore, do not find any merits in the O.A. Hence the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

Dated :- 06/12/2017.

dnk.

**(J.D. Kulkarni)
Vice-Chairman (J).**