

ORIGINAL APPLICATION NO 356 OF 2015

Shri Dilip s/o Chidhuji Kukde,)
R/o: Feparwada, Post-Pimpalkhuta)
Tal-Karanja, Dist-Wardha.)...**Applicant**

1. The State of Maharashtra)
Through the Secretary,)
Ministry of Revenue Department)
Mantralaya, Mumbai 400 032)
2. The Collector and Chairman,)
District Selection Committee)
Collector Office, Amravati.)
3. The Sub Divisional Officer,)
Morhsi, Dist-Amravati.)
4. The Tahsildar, Warud,)
Dist-Amravati.)
5. Shri Devidas s/o Supdu Kharat)
Tahsil Office Warud,)
Talsil-Warud, Dist-Amravati.)

)...Respondents

Shri M.A Sable, learned advocate for the Applicant.

Shri A.P Potnis, learned Presenting Officer for the Respondents, to 4.

Res No. 5 Absent.

CORAM : Shri Rajiv Agarwal (Vice-Chairman) (A)

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

DATE : 10.03.2017

PER : Shri Rajiv Agarwal (Vice-Chairman) (A)

ORDER


1. Heard Shri M.A Sable, learned advocate for the Applicant and Shri A.P Potnis, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant who is challenging the selection of Respondent no. 5 to the post of Talathi by the Respondent no. 2 from the Part-time employees category.

3. Learned Counsel for the Applicant stated that the Applicant has applied for the post of Talathi pursuant to advertisement dated 5.8.2013 issued by the Respondent no. 2 from open part time employees category. One post of Talathi was reserved horizontally from open category for part-time employees category.


Learned Counsel for the Applicant stated that the Respondent no. 5 has been selected for that post while the Applicant has been kept in the waiting list. Respondent no. 5 has given false information in his on-line application. He has given wrong information about his address and about his experience which was less than 3 years on part-time work, while he has claimed that he has worked for 3 years. There is mistake regarding the marks obtained by him at the Degree level also. Learned Counsel for the Applicant stated that the Certificate of part time employees submitted by the Applicant was forged and an enquiry was held by the Sub Divisional Officer, Tiwasa Bhatkuli in the matter. In his report to the Respondent no. 2, the said authority has found a large number of discrepancies in the Certificate produced by Respondent no. 5. However, despite this fact, the Respondent no. 5 has been given appointment to the post of Talathi, though he should have been held to be ineligible for the said post.

4. Learned Presenting Officer stated on behalf of the Respondents no 1 to 4 that the Assistant Director of Employment and Self Employment, Aurangabad has issued an eligibility Certificate to Respondent no. 5 in respect of his Part Time Employee status on the basis of letter dated 12.12.2008 issued by the Tahsildar, Soyagaon, Dist-Aurangabad. Copy of the said Certificate dated 10.12.2013 is enclosed by the Respondents.



Learned Presenting Officer further stated that some minor discrepancies in the Application Form of Respondent no. 5 will not make him ineligible for appointment. The Tahsildar, Nandgaon Khandeshwar had verified record of Tahsil office Soyagaon, Dist-Aurangabad and submitted his report dated 17.5.2014 and it is clearly stated that Respondent no. 5 was working in Soyagaon, District-Aurangabad from 14.7.1999 to 30.6 .2009 and Tahsildar, Soyagaon issued certificate in this regard to Respondent no. 5 on 12.12.2008. An enquiry was held by the Sub-Divisional Officer, Tiwasa Bhatkuli, who stated in his report that the complaint regarding overwriting on the documents is not specific and the Respondent no. 2 after considering all the facts concluded that there was no substance in the complaint of the present Applicant and issued appointment order to the Respondent no. 5 on 16.2.2015. Learned Presenting Officer stated that there is no substance in this Original Application and it may be dismissed.

5. Though the Applicant has made a big issue regarding the minor discrepancies in the percentage of marks obtained by Respondent no. 5 in B.A examination, that is of not much importance, because there is no doubt that the Applicant has passed B.A examination. Similarly issue regarding address is also not very important. The only issue which deserved consideration



is the report submitted by the Sub Divisional Officer, Tiwasa Bhatkuli dated 13.12.2014 to the Collector, Amravati, which is annexed as Exhibit A-10 at page 37 of this Original Application. In para 3 in the conclusion column, it is mentioned as under:-

“तहसीलदार यांचेकडून सदर प्रमाणपत्राचे साक्षांकित स्थळप्रती वरील कामाचे कालावधीतील पासूनचे कालावधीतील पर्यंतचे दिनांकात दिवसांचा अंक खोडतोड दिसते. तसेच प्रमाणपत्रावरील “वाचा” संदर्भातील शासन परीपत्रकातील संदर्भ वर्षात २००३ असे लिहिले आहे, तर उमेदवाराने सादर केलेल्या प्रतीवर २००२ असे नमुद आहे. तहसिलदार यांचेकडून प्राप्त साक्षांकित फोटो प्रत व उमेदवाराने सादर केलेले Laminated प्रमाणपत्र यावरील हस्तलिखित मजकुराचे हस्ताक्षरात फरक वाटतो. Expert कडून तपासणी केल्यास शहनिशा होईल.”

Similarly in conclusion the said authority has stated as follows:-

“इ) माहे जुलै ९९ ते ३१.३.२००२ पर्यंतचे तलाठी पोहरा यांचे स्तरावरून निर्गमित हजेरी प्रमाणपत्र (इंग्रजी) नमुना क्र. ७ हजेरीचा दाखला (मराठी) व अंशकालीन कर्मचा-याची हजेरी हे सर्व दाखले एकाच वेळी व एकाच हस्ताक्षरात लिहील्याचे दिसते. सदर प्रकरणी उक्त १,२ व ३ आणि संदर्भीय आदेशा समवेत प्राप्त दस्तांचे आधारे वरील आढळलेली वस्तुस्थिती सविनय सादर.”

In our opinion, these are the issue which should have been enquired into depth by Respondent no. 2 before issuing the appointment letter to Respondent no.5. However, without doing that, Respondent no. 2 has concluded there is no substance in the complaint against



the Respondent no. 5, which appears to be a hasty conclusion without considering all facts.

6. Considering all these facts, we are, of the opinion that Respondent no. 2 should conduct a detailed enquiry on the issue raised in the report of the Sub Divisional Officer, Tiwasa Bhatkuli dated 13.12.2014 regarding the experience of Respondent no. 5. This enquiry should be completed as early as possible and preferably within 3 months from the date of this order. Nodoubt, if it is found that the Certificate submitted by Respondent no. 5 is not genuine, necessary action will be taken by Respondent no. 2. This Original Application is disposed of in these terms with no order as to costs.

sd/-

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

sd/-

(Rajiv Agarwal)
Vice-Chairman(A)

Place : Mumbai

Date : 10.03.2017

Dictation taken by : A.K. Nair.