

(2013) 03 BOM CK 0199
In the Bombay High Court
Case No : Writ Petition No. 233 of 2013

Basu Gangaram Khillare

APPELLANT

Vs

Maharashtra S.R.T. Corporation

RESPONDENT

Date of Decision : 26-03-2013

Acts Referred:

Road Transport Corporations Act, 1950 — Section 34, 5

Citation : (2013) 138 FLR 343

Hon'ble Judges : B.P. Dharmadhikari, J;A.B. Chaudhari, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

B.P. Dharmadhikari and A.B. Chaudhari, JJ.—Heard Mr. A.P. Chaware, learned Counsel for the petitioner and Mr. V.G. Wankhede, learned Counsel for the respondent.

The petitioner has not been permitted to participate in the interview process for the post of Driver (Junior), though he has cleared the written test and the trade test. Denial to interview the petitioner is on the ground that he does not possess 10th Std. Pass Certificate issued by the competent Board.

Mr. A.P. Chaware, learned Counsel for the petitioner relies upon the Government Resolution dated 20.5.2011 issued by the General Administration, Department of State of Maharashtra to show that the graduate qualification conferred by the Yeshwantrao Chavan Open University, Nashik has been recognized as equivalent to 10th Std. Pass or 12th Std. Pass Certificates. He, therefore, states that, insistence of the Corporation that there has to be a resolution by it adopting the said Government Resolution is misconceived and erroneous. Section 5 of the Road Transport Corporations Act, 1950 does not give the Corporation any such right.

2 Mr. V.G. Wankhede, learned Counsel for the respondent submits that the resolution issued by General Administration, Department of State of Maharashtra

is for recruitment to the State Government service and it is, therefore, not applicable for recruitment to service with respondent herein. The respondent is an autonomous Body and section 5 of the Road Transport Corporations Act, 1950 permits it to take appropriate decision regarding its own management. In absence of such a decision of equivalence, refusal to treat the petitioner as a person with the requisite qualification, as required by the Advertisement, cannot be termed as arbitrary and erroneous. He, therefore, prays for dismissal of the Writ Petition. Learned Counsel for the respondent is taking support from the reply/affidavit filed before this Court.

3. We have perused the provisions of section 5 as also section 34 of the Road Transport Corporations Act, 1950. Section 5 of the Act permits the Corporation to take necessary decisions about its general superintendence, management of affairs and business and also permits its Board of Directors to issue necessary directions in the process. Section 34 of the Act enables the State Government to issue appropriate directions to the Corporation. Those directions may be relating to recruitment, conditions of service, training of employees, wages etc.

4. None of these provisions authorise the Corporation to determine equivalence of educational qualification. The aspect of equivalence, therefore, needs to be decided by some third agency. Here, the State Government has recognized equivalence and has treated the persons possessing B.A. qualification given by the Yeshwantrao Chavan Open University, Nashik as equivalent to 10th Std. or 12th Std. pass examination. In the light of the Government Resolution, it is clear that the respondents cannot contend that as they have not adopted the said Government Resolution, they will not treat the persons possessing B.A. decree of the said Open University as equivalent to a person possessing 10th Std. or 12th Std. Pass Certificate issued by the competent Board. We, therefore, find that denial by the respondent to interview the petitioner is unsustainable in law. It is informed to this Court that the recruitment process is still not over and the appointment orders are yet not issued to anybody. We direct the respondent to interview the petitioner in accordance with law within a period of six weeks from today and to proceed further in the matter.

The petition is, thus, partly allowed and disposed of. No costs.