
(2016) 03 BOM CK 0027

In the Bombay High Court

Case No : Writ Petition Nos. 8030, 8892, 8415, 8702 and 8937 of 2015

Pallavi and Others

APPELLANT

Vs

Government of India and Others

RESPONDENT

Date of Decision : 02-03-2016

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2016) 3 AIRBomR 163 : (2016) 4 BCR 399 : (2017) MCR 250

Hon'ble Judges : S.S. Shinde and P.R. Bora, JJ.

Bench : Division Bench

Advocate : S.S. Thombre, Advocate, for the Appellant; S.B. Deshpande, ASG, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Shinde, J.—1. All these Writ Petitions raise similar issues and having almost similar facts claiming similar reliefs are being heard and disposed of by common Judgment.

In Writ Petition No. 8030/2015, direction is sought to the respondent No. 2 to consider qualification of the petitioner as equivalent to the qualification mentioned in the Notification issued by the respondent No. 3. There is also challenge to the impugned letter/order dated 27th May, 2015, issued by respondent No. 2, with further prayer seeking direction to the respondent No. 2 to allow the petitioner to complete her training and thereafter issue consequential orders. In Writ Petition No. 8892/2015, similar reliefs are claimed except the date of impugned order/letter is mentioned as 27th June, 2015.

In Writ Petition No. 8937/2015, Writ Petition No. 8702/2015 and Writ Petition No. 8415/2015, the petitioners have taken exception to the letter/order dated 3rd June, 2015, 27th June, 2015 and 9th July, 2015, respectively. It is further prayed that, respondent No. 2 may be directed to consider the qualification possessed by the petitioners as equivalent to the qualification mentioned in the Notification/

Advertisement issued by the respondent No. 2 for the selection on the post of Agricultural Field Officers.

2. In all these Petitions, the respective petitioners have completed B.Sc. [Agricultural Bio-Technology] degree course from various Universities. There is no dispute that, all the petitioners possessed said qualification, and to that effect, the concerned University has conferred degree on the respective petitioners.

3. It is the case of the petitioners that, respondent No. 3 published an advertisement on 18.11.2013 for recruitment of the specialist Officers in the organizations wherein the respondent Banks are incorporated. An advertisement was issued for the post of Agricultural Field Officer [Scale-I] and eligibility criteria as mentioned for the Agricultural Field Officer [Scale-I] is 4 years degree [graduation] in Agriculture/Horticulture/Animal Husbandry/Veterinary Science/Dairy Science/Agri. Engineering/Fishery Science/Pisciculture/Agri. Marketing and Cooperation/Co-operation and Banking/Agro-Forestry. Some of the petitioners belong to reserved category and to that effect, they have placed on record copy of validity certificates. In pursuant to the aforesaid advertisement, respective petitioners submitted their online applications for the post of Agricultural Field Officer [Scale-I], and according to them, they were found eligible for the said post. The petitioners deposited requisite fees. They appeared for the examination, and according to them, they were declared successful for the post of Agricultural Field Officer [Scale-I]. The petitioners were called for interview on various dates.

4. It is the case of the petitioners that, at the time of interview, the concerned Authority has verified all original documents of the petitioners and found that, the petitioners are eligible, and therefore, they were interviewed. The petitioners received letters from the respondent No. 2 stating therein that, they have been selected. They also received offer letter of appointment in the service of different respondent banks, as Agricultural Field Officer [Scale-I], in reserved categories from which the petitioners belong.

5. It is further the case of the petitioners that, after receiving letter of appointment, the petitioners had reported at reporting Centre at Ahmedabad, and other places mentioned in said letters, and executed the bond, as well as Bank Officers had verified all the original documents relating to the educational qualifications of the petitioners. The petitioners were called for medical examination; they were declared fit for the said post. Thereafter, the petitioners received letters by which they were directed to report for mandatory induction training for the post of Agricultural Field Officer [Scale-I] at various Banks, Staff Training Centres for undergoing training.

6. It is the case of the petitioner in Writ Petition No. 8030/2015 that, on 27th May, 2015, the petitioner received e-mail at about 6.59 p.m. and along with that, letter dated 27th May, 2015, is posted on the e-mail address of the petitioner,

informing that, letter of appointment issued in favour of petitioner is withdrawn, on the ground that, qualification/degree possessed by the petitioner does not find mentioned in the advertisement, and therefore, the appointment letter issued in favour of petitioner came to be withdrawn.

It is the case of the petitioner in Writ Petition No. 8892/2015 that, on 27th June, 2015, the petitioner received communication, informing that, letter of appointment issued in favour of petitioner is withdrawn, on the ground that, qualification/degree possessed by the petitioner is not mentioned in the advertisement, and therefore, the letter of appointment issued in favour of petitioner came to be withdrawn.

It is the case of the petitioner in Writ Petition No. 8415/2015 that, on 9th July, 2015, the petitioner received communication, informing that, letter of appointment issued in favour of petitioner is withdrawn, on the ground that, qualification/degree possessed by the petitioner is not mentioned in the advertisement, and therefore, the appointment issued in favour of petitioner came to be withdrawn.

It is the case of the petitioner in Writ Petition No. 8702/2015 that, on 27th June, 2015, the petitioner received communication, informing that, letter of appointment issued in favour of petitioner is withdrawn, on the ground that, qualification/degree possessed by the petitioner has not been mentioned in the advertisement.

It is the case of the petitioner in Writ Petition No. 8937/2015 that, on 3rd June, 2015, the petitioner received communication, informing that, letter of appointment issued in favour of petitioner is withdrawn, on the ground that, qualification/degree possessed by the petitioner has not been mentioned in the advertisement.

7. The learned counsel appearing for the petitioners in Writ Petition Nos. 8030/2015 and 8892/2015 submits that, as per the Government Resolution dated 7th September, 2011, issued by the State Government, thereby holding that, B.Sc. [Agriculture Biotechnology], B.Sc. [Agricultural Business Management], B.F.S.C., B.Sc. [Horticulture] are equivalent to B.Sc. [Agri]/B.Tech. [Agriculture Engineering] and such other degrees. The learned counsel appearing for the petitioners invited our attention to the Government Resolution dated 7th September, 2011. It is further submitted that, the Director [Education], Maharashtra Council of Agricultural Education and Research has issued a letter dated 8th July, 2014, to the Director, I.B.P.S. House, 90 Feet, D.P. Road, Kandivali [E], Mumbai, thereby stating that, B.Sc. [Agriculture Biotechnology], B.Sc. [Agricultural Business Management], B.Sc. [Home Science], B.Tech. [Food Technology], B.F.S.C., B.Sc. [Horticulture] are equivalent to B.Sc. [Agri]/B.Tech. [Agriculture Engineering] and such other degrees, and therefore, requested to consider the selected candidates for the appointment. The learned counsel appearing for the petitioners invited our attention to the

contents of the said letter, which is placed on record at Exhibit-I of the compilation of the Writ Petition.

8. It is further submitted that, the Chancellor of Vasant Rao Naik Marathwada Agricultural University, Parbhani, has issued a letter to the Deputy Secretary of Agriculture, Animal Husbandry, Dairy Development and Fishery Department, Maharashtra State, Mantralaya, Mumbai, thereby stating that, the Nationalized Banks are not considering the degrees of B.Sc. [Agriculture Biotechnology], Agricultural Business Management, etc. as equivalent to other B.Sc. degree, and therefore, requested to issue appropriate directions to the Banks. The learned counsel appearing for the petitioners invited our attention to the contents of the said letter, which is placed on record at Exhibit-J. It is further submitted that, the petitioners and other similarly placed candidates have filed application to the respondent No. 2 on 06.07.2015, thereby stating that, the B.Sc. [Agricultural Biotechnology] is an allied specialization of Agriculture and is like B.Sc. [Agriculture] and has also asked to consider the selected candidates, who have obtained B.Sc. [Agriculture Biotechnology] degree and to issue appointment orders. The learned counsel appearing for the petitioners invited our attention to the contents of the said application, which is placed on record at Exhibit-K.

9. It is further submitted that, the Secretary and Director General of Government of India, Department of Agricultural Research and Education and Indian Council of Agricultural Research, Ministry of Agriculture, New Delhi has issued a letter dated 03.07.2015 to the respondent No. 3 thereby stating that, the B.Sc. [Agricultural Biotechnology] is a four years degree programme like B.Sc. [Agriculture]. It is an allied specialization of Agriculture encompassing several courses including crop production of field crops and horticultural crops, plant physiology, plant genetics and breeding, plant pathology and microbiology and organic farming etc., and therefore, it was further requested to look into the matter and issue necessary instructions to consider the selected candidates for the appointment of Agricultural Field Officers. But, in spite of the above communications and letters, the respondents have not taken any action to issue appointment order in favour of the petitioners. It is further submitted that, the Union Bank itself has given appointment to one candidate namely Vivek Hanumantrao Karpe on the post of RDO/AFO in Jaunpur Region during the year 2011 to 2014 and his degree was also B.Sc. Agricultural Biotechnology and the said information has been provided to one Yogesh Ghan by the Union Bank under the Right to Information Act, and therefore, the respondents are required to be directed to consider the claim of the petitioners also. It is further submitted that, the Secretary and Director General of Government of India, Department of Agricultural Research and Education and Indian Council of Agricultural Research has issued a letter dated 27.11.2015, thereby requesting to the Joint Secretary [Policy], Department of Agriculture Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi to look into the matter and favourably forward it to the Ministry of Finance stating that, the four years degree in agriculture and allied disciplines may be included in eligibility

criteria for the selection of Agricultural Field Officer in Banks.

10. It is further submitted that, pursuant to the afore mentioned letter dated 27th November, 2015, the Joint Secretary [Policy], Department of Agriculture Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi, issued a letter to the Minister of Finance, stating that, four year degree in Agriculture and allied disciplines like Agricultural Biotechnology, Food Science, Agriculture Business Management, etc. may be included in the eligibility criteria for the selection of Agriculture Field Officers in Banks, besides other prescribed norms and further requested to amend the criteria for selection of Agriculture Field Officers in Banks. The learned counsel appearing for the petitioners invited our attention to the contents of both letters dated 27.11.2015 and 30.11.2015.

11. It is further submitted that, the Under Secretary of the Government of India, Ministry of Finance has issued a letter to the Director, Institute of Banking Personnel Selection, Mumbai, on 10.12.2015, thereby stating that, the Department of Finance has no objection on the changes suggested by the Ministry of Agriculture vide its letters dated 18.11.2015 and 30.11.2015 on the subject and IBPS may take up the matter with participating PSBs/IBA at its level. Therefore, the learned counsel appearing for the petitioners submit that, all the communications/copies of letters, Government Resolution, which are referred in the Petition and placed on record, shows that, the degree of B.Sc. Agricultural [Bio-Technology] and the B.Sc. [Agri.]/B.Tech. [Agriculture Engineering] are equivalent, and therefore, the respondents ought to have considered the claim of the petitioners.

12. It is further submitted that, the letter, by which the appointments of the petitioners have been withdrawn, is totally unjust, illegal, and after completing all the process when the petitioners were about to join on 1st June, 2015 and in some cases, letter was issued for joining training Centre. It is submitted that, only because respondent No. 2 had observed in the letter that, as per the Notification published by the respondent No. 3 that, Bio-technology is not equivalent with the said Notification, mentioned in the qualifications for the post of the Agricultural Field Officer [Scale-I], the impugned action of withdrawing appointment letters have been taken by the respondents. Since the petitioners have completed degree course i.e. B.Sc. [Agriculture Bio-Technology] from various Universities, the petitioners are complying the eligibility criteria for the said posts, but merely because the word "Bio-Technology" is not mentioned in the Notification/advertisement, the order of appointment of the petitioners are withdrawn, after completing all formalities including undergoing training, and therefore, the action on the part of the respondent No. 2 is unjust, arbitrary and illegal, and therefore, this Court should invoke extra ordinary writ jurisdiction so as to grant discretionary and equitable reliefs in favour of the petitioners. The learned counsel appearing for the petitioners invited our attention to the various documents placed on record and submits that, qualification/degree possessed by

the petitioners is equivalent to the qualification mentioned in the advertisement, and therefore, after selection of the petitioners and issuing letter of appointment in their favour, the respondents should not have withdrawn the appointment letters by issuing communications to the petitioners.

13. The learned counsel appearing for the petitioners invited our attention to the pleadings and grounds taken in the Petitions, annexure thereto, and all other documents placed on record and submits that, the Petitions deserve consideration.

14. The learned counsel Mr. A.T. Jadhavar appearing for the petitioners in Writ Petition Nos. 8415/2015, 8702/2015 and 8937/2015 adopted arguments advanced by Advocate Mr. S.S. Thombre appearing in other connected two Writ Petitions and in addition, submits that, during interviews all the documents and eligibility criteria of the petitioners was verified by the respondent No. 3 Institute. All petitioners were declared eligible for the post of Agricultural Field Officer. The petitioners successfully cleared the said interviews. The candidature of the petitioners have been selected and accepted on their performance in online CWE and interview. The petitioners were declared as successful candidates and as per the preference given by the petitioners, the petitioners were given allotment of the respondent Banks. As a matter of fact, the appointments letter were issued to the petitioners, they were asked to report at Training Centres. Thereafter, when the petitioners were under preparation for medical test and the training programme, suddenly without any intimation they received communication from the respondent banks that, their selection for the post of Agricultural Field Officer/Rural Development Officer is cancelled. The learned counsel appearing for the petitioners invited our attention to the various documents showing that, B.Sc. [Agricultural Bio-Technology] 4 years degree course is equivalent to the B.Sc. [Agriculture] course. The learned counsel appearing for the petitioners pressed into service the Judgment of the Full Bench of the Madras High Court in the case of Nadar Thanga Shubha Laxman A. v. The State of Tamil Nadu & another in Writ Petition (MD) No. 16181/2012 [along with connected Writ Petition (MD) Nos. 16051/2012, 16052/2012, 15660/2012, 16780/2012, 18793/2012 and Contempt Petition (MD) No. 637 of 2013], decided on 29th November, 2013 and submits that, in the said Judgment the Madras High Court has taken a view that, the equivalence certificate issued by the Committee constituted by the Government declaring that the degrees obtained from one University is equivalent to the degrees obtained from yet another University cannot be held to be only prospective in operation but will have its effect and validity right from the date of issuance. Therefore, the learned counsel appearing for the petitioners submits that, documents placed on record unequivocally indicates that, the qualification possessed by the petitioners is equivalent to B.Sc. Agri., and therefore, the said equivalence relate back from acquiring same qualification from the respective Universities. Therefore, he submits that, Petitions deserves to be allowed.

15. The learned counsel appearing for respondents bank relying upon the averments in the affidavit in replies filed by the respective banks submits that, Petitions are not maintainable and deserve to be dismissed only on the ground that, having participated in the selection process with knowledge about the specific educational qualification prescribed for the concerned post, the petitioners are not entitled either to challenge the criterion or seek equivalence with the educational qualification prescribed. The eligibility criteria like educational qualification, age etc. are prescribed after discussions with the concerned representatives of participating banks/organizations on behalf of whom the respondent No. 3 conducts the test/selection process as per job requirements and guidelines prescribed by Government of India from time to time. Accordingly, the respondent No. 3 gives detailed advertisement/notification having prescribed eligibility criteria, terms and conditions. Since the selection process is an all India selection process, the participating banks/organizations have to adhere to the terms and conditions prescribed in the advertisement for the sake of uniformity. The learned counsel invited our attention to the contents of the annexure marked at Exhibit-R1 and submits that, in the said clarification given by the Ministry of Agriculture, Government of India that, Bio-Technology, Home Science, Food Processing and Forestry may not be treated as requisite qualifications for the recruitment of the Agricultural Field Officers under the Banking Sector. It is submitted that, on 17.11.2014, a notification was issued by the respondent No. 3, inviting eligible candidates to apply for the post of Agricultural Field Officer Scale-I to be posted in any of the Banks mentioned in the notification including respondent No. 2 Bank. The notification specifically prescribed the qualification for the post of AFO as "4 years Degree [graduation] in Agriculture/Horticulture/Animal Husbandry/Veterinary Science/Dairy Science/Agri. Engineering/Fishery Science/Pisciculture/Agri. Marketing and Cooperation/Co-operation and Banking/Agro-Forestry.

16. It is submitted that, based on the declaration made by the applicants, the process of selection was made electronically in the matter of calling the candidates to appear for the examination, the evaluation of the answer papers and based on the result of the written examinations, the candidates were called for interview by the respondent No. 3, which is entrusted in recruiting the candidates. It is submitted that, the petitioners were permitted to take written test and they went through the selection process of attending the interviews with the respondent No. 3. Based on the marks obtained by the candidates in the written test and their performance in the interviews, respondent No. 3 informed the respondent No. 2 about the eligibility of petitioners. Thereafter, offer of letter of appointment was issued to the some of the petitioners and they were directed to report for the mandatory induction training. It is submitted that, the offer of appointments explicitly provided that, it was provisional in nature and it was subject to the submitting all the required documents in support of eligibility by the petitioners and the same being found in order. In terms of clause-7 of the provisional offer of appointment, the petitioners were also issued with letter,

directing them to report for the mandatory induction training for the post of Rural Development Officer, Grade-I. It is submitted that, it was much later that, the documents of the petitioners were received by the respective banks from the respondent No. 3. Perusal of the same revealed that, the petitioners have only obtained B.Tech in Bio Technology and not any of the qualifications which were prescribed in online application form. In fact, in the online application filled in by the petitioners, they have mentioned that, qualification to be graduation in Agriculture. Accordingly, the petitioners were informed that, they do not fulfill requisite qualification prescribed in the advertisement.

17. It is submitted that, the notification issued by respondent No. 3 calling for applications for various posts in 22 Nationalized and Private Banks categorically mentioned the qualification that was required to be possessed by the interested candidates for the post of Agricultural Field Officer, Grade-I. The online application also provided options only to choose the prescribed educational qualification, whereas the petitioners gave false declaration of holding degree in Agriculture, while the petitioners were holding degree in Bio-Technology. Further, the action of the Banks in rejecting the application of the petitioners must be viewed in a wider sense that, if it had been open to other Bio-Technology Graduates, many other more qualified persons, apart from the petitioners, would also have applied for the same post. The action of the Banks in rejecting the application of the petitioners should, therefore, be viewed considering the inequality and discrimination that would arise with regard to various other qualified persons holding Bio-Technology degree.

18. It is submitted that, the respondent No. 2 in Writ Petition No. 8030/2015 is a Central Government undertaking and the recruitment of Agricultural Field Officer being done on an all India basis, the petitioner cannot claim equivalence of educational qualification on the basis of Resolution issued by the State Government to that effect.

19. It is submitted that, in similar Writ Petition filed before the High Court of Bombay Bench at Nagpur in Writ Petition No. 3829/2014 [Schin Narnaware v. IBPS, Union of India & others], the basis of eligibility claimed by the candidate, petitioner was equivalence granted by State of Maharashtra to the two degrees i.e. B.Sc. in Food Science and B.Sc. Agriculture. The Division Bench of the High Court observed that, a Nationalized Bank could not have considered the equivalence granted by a particular State to the degrees secured by the candidates in the respective State. Moreover, it was not the case of the petitioners that, the University Grants Commission, the Central Body, had granted equivalence to the degrees i.e. B.Tech Degree in Food Science and B.Sc. in Agriculture. Since the appointment of the petitioner was not being made in the State Services, the petitioner could not have claimed eligibility on the basis of Government Resolution dated 07.09.2011. The Court held that, even otherwise, it would not be in a position to grant equivalence to the aforesaid two degrees and it would also not be proper on its part to interfere with the job requirements

of respondents. The learned counsel further invited our attention to the Judgment of the Allahabad High Court in Writ Petition No. 23670/2015 [Yogendra Singh Kushwaha v. Union of India & others] and submits that, the candidate is required to have educational qualification exactly as per the advertisement in question for the concerned post which cannot be equated or replaced with any other qualification for any reason.

20. The learned counsel appearing for the respondent Central Bank of India in Writ Petition No. 8415/2015 adopted arguments advanced by the learned counsel appearing for the other Banks and the respondent No. 3, and in addition to the same, he submits that, petitioners are possessing qualification as B.Sc. [Agricultural - Bio-Technology]. As a matter of fact the prescribed qualification required for the Agricultural Field Officers is B.Sc. Agri.. Therefore, since the petitioners were not holding the qualification prescribed in the advertisement, and therefore, selection of the petitioners have already been cancelled.

21. The learned counsel appearing for the respondent - Oriental Bank of Commerce in Writ Petition No. 8937/2015 has also adopted the arguments advanced by the counsel appearing for the other Banks and the respondent No. 3 and in addition to that, relying upon the averments in the affidavit-in-reply of the respondent No. 2 submits that, clause-12 of the appointment letter clearly mentions that, in case it is detected at any stage, even after appointment in the Bank, that candidates do not fulfill the eligibility norms and/or that candidate has furnished any incorrect/false information/certificates/documents or have suppressed any material fact (s), offer of appointment shall stand cancelled and services are liable to be summarily terminated. The learned counsel further submits that, this Court has no jurisdiction to entertain the Petition, since the respondent No. 4 is situated at Bhopal, Local Head Office of the Bank and the other authorities of the Bank are at Mumbai. The learned counsel also invited our attention to the averments in the affidavit in reply and submits that, Petition deserves to be dismissed.

22. The learned counsel appearing for the respondent No. 3 relying upon the averments in the affidavit-in-reply submits that, respondent No. 3 is raising the preliminary objections for maintainability of the Writ Petitions, since the respondent No. 3 is not the "State" within meaning of Article 12 of the Constitution of India and therefore not amenable to the writ jurisdiction. The respondent No. 3 is a Public Trust, registered under the provisions of Bombay Public Trusts Act, 1950, and also under the provisions of Societies Registration Act, 1860. It is not a Statutory Body established under any specialized legislation and therefore not amenable to the writ jurisdiction. Respondent No. 3 is completely Autonomous Body, which is specialized in conducting test/selection process of personnel to participating banks and the other organizations to fill the reported vacancies as per the requirement of various participating banks/organizations. It is submitted that, respondent No. 3 Institute is not having any concerned with the Banks except to conduct online examination and declared

result. The working system of institute cannot be termed as public function. In support of the contention that, respondent No. 3 is not amenable to writ jurisdiction, since is not the "State" within meaning of Article 12 of the Constitution of India, the learned counsel appearing for the respondent No. 3 pressed into service the decision of the Bombay High Court in the case of Mohan Laxman Gamare v. IBPS in Writ Petition No. 1042/2014, in the case of Mr. Manoj Kumar v. IBPS in Writ Petition No. 2616/2014, and in the case of Mr. Arun Kumar v. IBPS in Writ Petition No. 2617/2014. It is submitted that, recently, the Bombay High Court at Principal seat in the case of Mohan Laxman Gamare v. Institute of Banking Personnel Selection [IBPS] & another in Writ Petition [L] No. 1042/2014 along with connection Writ Petitions, decided on 7th May, 2014, has taken a view that, Writ Petitions are not maintainable against the present respondent No. 3. It is submitted that, similar view is taken by the High Court of Madhya Pradesh, Delhi High Court, Manipur High Court, Jharkhan High Court, Patna High Court and Punjab & Haryana High Court in various Writ Petitions.

23. It is submitted that, in the Notification dated 18.11.2013, para "L", Clause-7, it is clearly mentioned "any resulting dispute arising out of this advertisement including the recruitment process shall be subject to the sole jurisdiction of the Courts situated at Mumbai". Therefore, according to the learned counsel appearing for the respondent No. 3, Petition ought to have been filed in the Court situated at Mumbai. It is submitted that, at the time of scrutiny and verification of documents of the petitioners, it was noticed by the respondent No. 2 i.e. Union Bank of India that, the petitioners/candidates possessed the educational qualification "Bachelor of Science [Agricultural Bio-technology] degree, and hence did not fulfill the eligibility criteria laid down in advertisement/notification dated 18.11.2013 and did not fall within the prescribed educational qualifications stipulated for the post of "Agricultural Field Officer" also known as "Rural Development Officer" post in Union Bank of India. The learned counsel appearing for the respondent No. 3 invited our attention to the prescribed educational qualification for the post of "Agricultural Field Officer Scale-I" as given in the advertisement and submits that, in the advertisement, qualification possessed by the petitioners is not mentioned. It is submitted that, petitioners have not challenged advertisement/notification, on the contrary, it is the case of the petitioners that, the qualification of B.Sc. Agri. Biotechnology is considered equivalent to degree in agriculture. It is submitted that, B.Sc. in Agricultural Biotechnology is not eligible qualification for the post of Regional Development Officer/Agriculture Field Officer. As it is clear from the advertisement/notification dated 18.11.2013 that, participating organizations are in need of such candidates, who have studied prescribed subjects in the course of his/her degree [graduation] in Agriculture Science. At the time of applying for CWE-SPL-III in the online application form, there was option to mention subject. But the petitioners had not filled up that parameter with appropriate available option. The candidates are required to select the qualification as prescribed in the advertisement/notification. In the present cases, the candidates have suppressed

their actual qualification. So, it was a deliberate effort on the part of the petitioners that, though they do not possess prescribed educational qualification mentioned in the advertisement and yet they applied for the post of AFO Scale-I. It is submitted that, It was clearly mentioned in the concerned advertisement/notification that, the intending applicant should ensure that, he/she fulfills the stipulated criteria specified by the IBPS and follows the prescribed processes. The learned counsel appearing for the respondent No. 3 invited our attention to the eligibility criteria specified by IBPS.

24. It is submitted that, the Division Bench of Allahabad High Court in Judgment, delivered on 30th April, 2015 in Writ Petition No. 44934/2013 [Gaurav Singh v. Union of India & others] has held that, the candidate is required to have educational qualification exactly as per the advertisement in question for the concerned post, which cannot be equated or replaced with any other qualification for any reason. It is submitted that, respondent No. 3 has no any role in the appointment process, except conducting examinations as Test Conducting Agency. It is submitted that, the Hon''ble Supreme Court in the case of P. Mahendran & others v. State of Karnataka , [1990] 1 SCC 411, held that, if a candidate applies to a post in response to an advertisement issued by the Commission in accordance with the Recruitment Rules, he/she acquires a right to be considered for selection in accordance with the existing Rules. This right cannot be affected by amendment of any Rules unless the amending Rule is retrospective in nature. Therefore, he submits that, the selection process once set in motion has to be within the terms and conditions of the advertisement, and therefore, change in the qualification once prescribed is impermissible for alteration, unless notice is issued to all the candidates and the rule is retrospective in nature. It is submitted that, respondent No. 3 facilitates to select suitable candidates as per the recruitment of participating organizations. Merit listed eligible candidates are provisionally allotted on merit cum preference basis to the participating organizations, depending upon the vacancies notified by them to IBPS. That does not constitute an offer of employment. In case it is detected at any stage of recruitment process that the candidate does not satisfy the eligibility criteria his/her candidature/chance in the process stands forfeited. The allottee bank is the ultimate authority to issue appointment letter to the candidate subject to their terms and conditions and requirements. The decision of the allottee bank will be final and binding on the candidates. The respondent No. 3 has no role to play. The Hon''ble Supreme Court in the case of State of Rajasthan and ors. v. Lata Arun , AIR 2002 SC 2642, held that, the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

25. It is submitted that, the allottee bank has got every right/discretion to cancel the candidature of the provisionally allotted candidates if he/she/they does/do

not have the specified/prescribed eligibility criteria. It is submitted that, it is clearly mentioned in the concerned notification/advertisement in para I [Allotment] that, "Offer of appointment is solely decision of the Participating Organizations and shall be final and binding. The respondent No. 3 has no role in the said process. The learned counsel appearing for the respondent No. 3 also invited our attention to the Judgment of the Bombay High Court, Bench at Nagpur, in the case of Sachin Narnaware v. IBPS & Union of India & Ors in Writ Petition No. 3829/2014, wherein view is taken that, a candidate is required to possess a B.Sc. Degree in Agriculture or Agriculture Engineering. The petitioner therein admittedly does not possess the said degree. The only basis for claiming the eligibility is the equivalence granted by the State of Maharashtra to the two degrees i.e. B.Tech Degree in Food Science and the B.Sc. Degree in Agriculture. The Court would not be in a position to grant equivalence to the aforesaid two degrees and it would also not be proper on the part of the Court to cause interference with the job requirements of the respondent No. 4 therein. Therefore, according to the learned counsel appearing for the respondent No. 3, no fault is found in the action of the respondent Bank in rejecting the candidature of the petitioners, and therefore, Writ Petitions are liable to be dismissed.

26. It is submitted that, the Ministry of Agriculture, Department of Agriculture & Co-operation [Policy Division], Krushi Bhavan, New Delhi have clarified the definition of Agriculture and Allied activities by letter dated 27th September, 2013, wherein it was observed that, the Bio Technology Home Science, Food Processing and Forestry may not be treated as requisite qualification for the recruitment of Agriculture Field Officer under the Banking Sector. The learned counsel appearing for the respondent No. 3 invited our attention to the letter dated 27th September, 2013, issued by Krushi Bhavan, New Delhi, which is placed on record at Exhibit-R1 along with reply. It is further submitted that, now the provisional allotment of CWE-SPL-III as per Advertisement is over on 07.04.2014 and displayed in the public domain [i.e. IBPS website] on 07.04.2014, for the post of "Specialist Officers [AFO]". The reserved list has also been published and displayed on 31.03.2015. The next Common Recruitment Process of CRP-SPL-IV is also completed on 06.04.2015. The issuance of appointment letters of provisionally allotted candidates are in progress/completed by the Participating Banks/Organizations and the role of IBPS has become infructuous as the selection process is already over. Hence, on this ground itself the Writ Petitions deserves to be dismissed.

27. It is submitted that, the petitioners could not be legally granted any relief and if relief is granted, it will be open a PANDORA'S BOX and the entire selection process of the thousands of deserving and law-abiding candidates would also not be completed in time which would cause great injustice to such deserving and successful candidates. It is further submitted that, even the eligibility criteria like age, qualification etc. are also prescribed after discussion with the Participating Organizations and as per their requirement/need and keeping in view the

clarification received from Under Secretary to Government of India, Ministry of Agriculture, Department of Agriculture & Cooperation [Policy Division], vide its letter bearing F. No. 02-02-2013-Policy dated 27.09.2013, clarifying the requisite qualifications for recruitment of "Agriculture Field Officers" under the Banking Sector. It is submitted that, the Secretary and Director General of Government of India, Department of Agricultural Research, Ministry of Agriculture, had issued a letter dated 03.07.2015 to respondent No. 3 with a request to look into the matter and issue necessary instructions in this regard. The aforesaid letter dated 03.07.2015 was replied by IBPS vide its letter No. 2828 dated 07.07.2015, informing ICAR that, as the matter is subjudice, we are not in a position to offer our comments. It is submitted that, in response to a certain query, Department of Agriculture and Cooperation [Policy Division], Ministry of Agriculture, Government of India clarified definition of Agriculture and allied activities as under:

"C. The Bio-Technology, Home Science, Food Processing and Forestry may not be treated as requisite qualification for the recruitment of Agriculture Field Officer under Banking Sector."

28. It is further submitted that, the petitioners are not holding prescribed qualification for the post of Agricultural Field Officer/Rural Development Officer as per the advertisement. Therefore, the learned counsel appearing for the respondent No. 3 submits that, Petitions are devoid of any merit, and same may be dismissed.

29. We have heard the learned counsel Mr. S.S. Thombre and Mr. A.T. Jadhavar appearing for the petitioners in respective Petitions, and the learned counsel appearing for the respective respondents. With able assistance of the learned counsel appearing for the parties, perused the pleadings, and grounds taken in the Petitions, annexure thereto, replies filed by the respective respondents, and the Judgments of the High Court and the Supreme Court cited across the bar by the learned counsel appearing for the respective parties in support of their contentions raised during the course of hearing.

30. In Writ Petition No. 8030/2015, the petitioner has placed on record copy of advertisement published by the respondent No. 3 at Page 22 and 23, wherein 14th December, 2013 was the date prescribed for calling online applications of the candidates, who were desirous for appointment on various posts mentioned in the said advertisement. The petitioner filed online application for the post of Agricultural Field Officer. In Writ Petition No. 8892/2015, the petitioner has placed on record copy of advertisement at Exhibit-C Page 21 to 23, wherein the post of Agricultural Field Officer [Scale-I] is shown at serial No. 2 in the said advertisement. Upon careful perusal of the clause of the educational qualification for the post of Agricultural Field Officer [Scale-I], the educational qualifications are mentioned as under:

"4 year Degree (graduation) in Agriculture/Horticulture/Animal Husbandry/

Veterinary Science/Dairy Science/Agri. Engineering/Fishery Science/Pisciculture/Agri. Marketing & Cooperation/Co-operation & Banking/Agro-Forestry."

In Writ Petition Nos. 8415/2015, 8702/2015 and 8937/2015, the petitioners have placed on record copies of advertisements wherein for the post of Agricultural Field Officer [Scale-I] the educational qualifications are the same, which are mentioned herein above.

31. The bone of contention of the learned counsel appearing for the petitioners, relying upon the various documents placed on record is that, all the petitioners have cleared B.Sc. [Agricultural Bio-Technology] 4 years degree course, and the same is equivalent to the B.Sc. Agri. course. It is their contention that, relying upon the various documents/copies of inter se communications between the respondents and the various authorities of the State Government and the Central Government, this Court should treat the qualifications possessed by the petitioners equivalent to the B.Sc. [Agricultural Bio-Technology]. The respondent No. 1 in Writ Petition No. 8030/2015, along with his reply has placed on record copy of letter dated 27th September, 2013, at Exhibit-R1, which is written by Kamal Jeet Singh, under Secretary to the Government of India to Shri A.S. Bhattacharya, Director of Institute of Banking Personnel Selection. It appears that, respondent had sought opinion of the Ministry of Agriculture, Department of Agriculture & Cooperation [Policy Division] by writing a letter dated 12th June, 2013, seeking clarification on the definition and Agriculture and Allied Activities. The contents of letter dated 27th September, 2013, at Exhibit-R1, and comments received thereon, reads thus:

"F.NO. 02-02/2013-Policy Ministry of Agriculture Department of Agriculture & Cooperation (Policy Division)

565, Krishi Bhavan, New Delhi Dated: 27th September, 2013

To,

Shri. A.S. Bhattacharya Director, Institute of Banking Personnel Selection IBPS House, Behind Thakur Polytechnic, Kandivali [E], Mumbai - 400 101. Maharashtra.

Subject: Definition of Agriculture and Allied Activities - Reg.

Please refer to your letter dated 12 June, 2013 seeking clarification on the definition of Agriculture and Allied Activities.

The Comments of this Ministry are enclosed as at Annexure.

Encl.: As above.

Sd/- (Kamal Jeet Singh) Under Secretary to the Govt. of India

COMMENTS

1.

i) Agriculture and allied sector, is defined as the occupation and field of knowledge concerned with cultivating land, raising of crops, production of crops, harvesting, breeding and raising livestock, fishery and production of livestock, poultry and fish.

ii) On the other hand, biotechnology is an independent evolving science; food - processing is an offshoot activity of agriculture; while agricultural marketing is an integral part of agricultural development.

iii) The Bio-Technology, Home Science, Food Processing and Forestry may not be treated as requisite qualification for the recruitment of Agriculture Field Officer under the Banking Sector. However, the qualifications viz. Agro - Forestry and Horticulture may be included in the recruitment rule for A.F.O. besides the qualification of Dairying, Fisheries and Agriculture Engineering.

2.

i) The Institute of Banking Personnel Selection need to take a view on activities to be funded and promoted in which they would like the candidate perform rather than getting guided by the definition of agriculture and sector which is evolving in nature.

32. Upon careful perusal of the contents of the letter at Exhibit-R1 with comments received from under Secretary to the Government of India in reply to the letter written on 12th June, 2013, by the respondents to the said authority, it is abundantly clear that, the afore-mentioned Department of Government of India expressed opinion that, the Bio-Technology, Home Science, Food Processing and Forestry may not be treated as requisite qualification for the recruitment of Agriculture Field Officer under the Banking Sector. According to the respondents acting upon the said opinion, which was received prior to the issuance of the advertisement for the post of Agricultural Field Officer, the qualification B.Sc. [Agricultural Bio-Technology] is not mentioned in the advertisement. Admittedly, B.Sc. [Agricultural Bio-Technology] qualification is not mentioned in the column of educational qualification for the post of Agricultural Field Officer [Scale-I]. The petitioners, at the time of filling online applications, were fully aware that, B.Sc. [Agricultural Bio-Technology], is not included under the caption "the educational qualification" in the advertisement, for appointments on the post of Agricultural Field Officer [Scale-I]. The respondents in their replies have stated that, it is only after online selection process is over, the respondents had opportunity to look into the documents at the time of scrutiny, about educational qualifications possessed by the respective candidates, who applied online for the selection process, and examination was also conducted on line.

33. The contentions raised in these Petitions by the petitioners gave rise to a question that, whether the court can decide a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority? As already observed, in the present Petitions, the learned counsel appearing for the petitioners tried to persuade us to hold that, B.Sc. [Agricultural

Bio-Technology] is equivalent qualification to the B.Sc. Agri. mentioned in the advertisement. The Supreme Court in the case of *State of Rajasthan and others v. Lata Arun* , AIR 2002 SC 2642, after considering the ratio laid down in the earlier pronouncement of the Supreme Court of which reference is made in para 10 and 11 of the said Judgment, held that, the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

Yet in another authoritative pronouncement in the case of *Sanjay Kumar Manjul v. Chairman, UPSC & others* , [2006] 8 SCC 42, it is held that, the qualifications for recruitment to a post are laid down in terms of the statutory rules. The statutory authority is entitled to frame the statutory rules laying down the terms and conditions of service as also the qualifications essential for holding a particular post. It is only the authority concerned which can take ultimate decision therefor.

Yet in another Judgment in the case of *P.M. Latha and another v. State of Kerala and others* , [2003] 3 SCC 541 the Supreme Court while considering the argument that, B.Ed. qualification is a higher qualification than TTC and therefore the BEd candidates should be held to be eligible to compete for the post, has held as under:

"There is no force in the argument that BEd qualification is a higher qualification than TTC and therefore the BEd candidates should be held to be eligible to compete for the post. On behalf of the appellants it is pointed out that Trained Teacher's Certificate is given to teachers specially trained to teach small children in primary classes whereas for BEd degree the training imparted is to teach students of classes above primary. BEd degree-holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or BEd qualification is a matter of recruitment policy. There is sufficient logic and justification in the State prescribing qualification for post of primary teachers as only TTC and not BEd. Whether BEd qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but the Court cannot consider BEd candidates for the present vacancies advertised, as eligible."

Yet in another Judgment in the case of *Prakash Chand Meena and others v. State of Rajasthan and others* , [2015] 8 SCC 484, while considering the issue of equivalence of qualification, the Hon"ble Supreme Court held that, recruitment process must be completed as per terms and conditions in the advertisement and as per Rules existing when the recruitment process began.

34. In the present case, admittedly, the petitioners have not challenged the

advertisement that, it omitted to mention equivalent qualification B.Sc. [Agricultural Bio Technology], for the post of Agricultural Field Officer [Scale-I]. The petitioners participated in the selection process in pursuance of the advertisement wherein qualification possessed by the petitioners is not mentioned as prescribed qualification for the post of Agricultural Field Officer [Scale-I]. The Supreme Court while considering the similar facts situation as has arisen in the present Petitions, in the case of Prakash Chand Meena and others v. State of Rajasthan and others [cited supra] in para 9 held thus:

"9. The candidates who were aware of the advertisement and did not have the qualification of CPED also had two options, either to apply only for PTI Gr. II if they had the necessary qualification for that post or to challenge the advertisement that it omitted to mention equivalent or higher qualification along with qualification of CPED for the post of PTI Gr. III. Having not challenged the advertisement and having applied for the other post, they could not have subsequently claimed or be granted eligibility on the basis of equivalence clarified or declared subsequently by the State Government. In the matter of eligibility qualification, the equivalent qualification must be recognised as such in the recruitment rules or government order existing on or before the initiation of recruitment process. In the present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor were the equivalent qualifications reflected in the recruitment rules or government orders of the relevant time."

35. The learned counsel appearing for the petitioners were at pains to submit that, the respondents allowed their participation in selection process, the petitioners were selected, appointment letters were issued, and they were sent for training, and therefore, on principle of equity also the petitioners are entitled for the reliefs claimed in the Petitions. There is fallacy in the said argument inasmuch as the petitioners were aware that, the qualification i.e. B.Sc. [Agricultural Bio-Technology] is not mentioned in the advertisement for the post of Agricultural Field Officer, and therefore, it is not open for the petitioners to contend that, they are entitled for equitable relief. On the contrary, there is force in the arguments advanced by the counsel appearing for the respective respondents that, the other candidates, who possessed qualification like the petitioners, if knew that, the B.Sc. [Agricultural Bio Technology] is going to be treated as equivalent qualification to B.Sc. Agri., they might have participated in selection process. There is also considerable force in the argument advanced by the learned counsel appearing for the respondents that, some of candidates, who possessed exact qualification mentioned in the advertisement, to some extent are deprived from their selection due to selection of the petitioners on the post of Agricultural Field Officer.

36. As already observed, the respondents had opportunity to scrutinize the documents submitted by the petitioners at the time of scrutiny after selection

process was over, as per the schedule of selection process given in the advertisement. As rightly contended by the learned counsel appearing for the respondent banks that, the clause of offer of appointment letter provides that, even after such letter is issued at any stage, said offer of appointment can be cancelled in case it is noticed subsequently that, there is breach of criterion/ conditions mentioned in the advertisement.

While considering the law and principle of equity, the Hon"ble Supreme Court in the case of P.M. Latha and another v. State of Kerala and others [cited supra] in para 13 held thus:

"13. Equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law. The Division Bench forgot that in extending relief on equity to BEd candidates who were unqualified and yet allowed to compete and seek appointments contrary to the terms of the advertisement, it is not redressing the injustice caused to the appellants who were TTC candidates and would have secured a better position in the rank list to get appointment against the available vacancies, had BEd candidates been excluded from the selections. The impugned judgment of the Division Bench is both illegal, inequitable and patently unjust. The TTC candidates before us as appellants have been wrongly deprived of due chance of selection and appointment. The impugned judgment of the Division Bench, therefore, deserves to be set aside and of the learned Single Judge restored."

37. Therefore, in our considered view, neither we can consider the prayer of the petitioners to treat the qualification possessed by them equivalent to 4 years Degree [graduation] in Agriculture, which is mentioned in the advertisement, nor the petitioners are entitled for equitable relief. Since we have reached to the conclusion as aforesaid, it is not necessary for us to consider ancillary and incidental issues raised by the parties.

38. In the light of discussion in the foregoing paragraphs, and the ratio laid down by the Hon"ble Supreme Court in the case of State of Rajasthan and others v. Lata Arun [cited supra], and other Judgments referred herein above, it is not for Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority. Therefore, the petitioners are not entitled for the reliefs prayed in the Petitions, hence, Petitions stand rejected.