

(2010) 02 BOM CK 0095

In the Bombay High Court

Case No : Writ Petition No. 5967 of 2007

Satish Haribhau Sapate

APPELLANT

Vs

President and Others

RESPONDENT

Date of Decision : 01-02-2010

Acts Referred:

Citation : (2010) 5 BomCR 792

Hon'ble Judges : Varale P.B., J; Joshi A.H., J

Bench : Division Bench

Advocate : S.A. Radke, for the Appellant; D.P. Thakre, A.G.P. for respondent No. 1 and M.P. Munshi, for the Respondent

Judgement

Joshi A.H., J.—Rule. Rule is made returnable forthwith. Learned Asstt. Government Pleader Mr. D.P. Thakre waives service for respondent No. 1 and learned Advocate Mrs. M.P. Munshi, for respondent Nos. 2 and 3.

2. Heard finally by consent of parties.

3. The writ petition is based on the foundation that the educational qualification prescribed under Zilla Parishads District Services [Recruitment] Rules, 1967, provides for educational qualifications for appointment by nomination to the post of Live Stock Supervisor as follows:

I. Appointment shall be made either:-

(a) ...

(b) ...

(i)...

(ii) has passed the Live Stock Supervisors Training Course conducted by the Director or any statutory Agricultural University in the State of Maharashtra or have passed two years Diploma Course in the Dairy Farm Management and Animal Husbandry conducted by the Board of Technical Examinations,

Maharashtra State, Bombay after passing the Secondary School Certificate Examination.

[Quoted from page No. 30 of the writ petition paper-book].

4. According to the petitioner, the respondent No. 4 does not hold the Certificate/ Diploma of Live Stock Supervisor as required by Rules. The petition is silent on the educational qualification held-possessed by the respondent No. 4. It has come on record that the respondent No. 4 holds a degree of Veterinary Science and Animal Husbandry. This fact is not denied or disputed by the petitioner.

5. Admittedly, the Rule relied upon by the petitioner does not provide for a barrier that the candidate having higher qualification would not be considered.

6. The State Government has filed affidavit and brought on record a copy of Gazette by which the said Rule has been amended with effect from 30th March, 1999. A copy of amended Rule is placed on record along with affidavit of the State at page 41. The amended Rule consists of a proviso which reads as follows:

2. ...

(ii) ...

Provided that preference shall be given to candidate possessing degree in the B.V.Sc., or B.V.Sc., and Animal Husbandry of any statutory Agricultural University or an equivalent University of the State of Maharashtra.

[Quoted from page No. 41 of the writ petition paper-book].

7. The position, which is emerging after amendment, is indisputable, namely the candidates having Bachelor's Degree, are not only eligible to apply, but would be preferred.

8. In view of this position, the candidature of respondent No. 4 was in accordance with law.

9. The deficiency or ineligibility pleaded by the writ petitioner was based on ignorance of law.

10. In the circumstances, no indulgence is called for.

11. Rule is discharged with costs.