

Municipal Corporation of Greater Bombay and others

Vs

Dr. Sushil V. Patkar and others

Civil Appeal No. 2526 of 1991 (arising out of S.L.P.(C) No. 5728 of 1991)

(A. M. Ahmadi, S. C. Agrawal JJ)

07.05.1991

JUDGMENT

1. Special leave granted.

2. Heard counsel on both sides. The eligibility for appointment was that the candidate should possess M.Ch. qualification. The last date for forwarding the applications was 20th April, 1990 on which date, admittedly, the respondent No. 1 did not possess the said qualification since he claims to have qualified on 22nd May, 1990. Even so, respondent No. 1 was called for interview and he was asked to produce the certificate showing that he had acquired the qualification in question. He failed to do so even at the interview stage and hence the Selection Board did not select him and informed him about the same. The Selection Board completed the selection and granted appointments accordingly. The respondent No. 1 filed a writ petition in the High Court and the High Court by the impugned order directed that the Selection Board may undertake 'a reappraisal of the claim of respondent No. 1 along with respondents Nos. 2 to 5 and prepare a fresh list of eligible candidates in accordance with merit for the post in question. In doing so, the appellant complained that the High Court had departed from the earlier decision of another Division Bench on the question of relaxation of time limit for furnishing the required certificate. We need not go into that question because, in our view, it is not possible to sustain the decision of the High Court for the simple reason that a candidate who was given an opportunity even at the belated stage of interviews to show that he possessed the necessary qualification for selection, having failed to furnish the certificate showing acquisition of qualification cannot be allowed to upset the selection and thereby interfere with the rights of third parties for his default. The Selection Board had no option but to ignore his candidature on his failure to satisfy it on the question of eligibility by producing the certificate of his having acquired the necessary qualification. He could not, therefore, be heard to say that his default should be condoned and the selection be upset notwithstanding its adverse impact on the rights of third parties. We are, therefore, clearly of the opinion that it was not a fit case for interference by the High Court under 'Article 226 of the Constitution.

3. We, therefore, allow the appeal, set aside the order of the High Court and direct that the petition pending in the High Court will stand dismissed. The appeal is allowed accordingly with no order as to costs.

Appeal allowed.

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