



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13975 OF 2017

Kritikakumari d/o Pradeekumar Sudele,
Age 23 years, Occu. Education,
R/o Bhusawal, Tq. Bhusawal, District-Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Higher & Technical Education
Department,
Government of Maharashtra,
Mantralaya, Mumbai-32.
2. The Secretary,
Department of Energy,
Govt. of Maharashtra,
Mantralaya, Mumbai-32.
3. Maharashtra State Electricity Transmission
Company Limited, Plot No.C-19,
'Prakashganga', 7th Floor,
Bandra-Kurla Complex, Bandra (E),
Mumbai-51,
Through its Managing Director.
4. The Chief Engineer,
EHV & OM Pune Zone,
Maharashtra State Electricity Transmission
Company Limited,
Pune Zone, Rasta Peth,
Administrative Building,
3rd Floor, Block No.402, Pune.
5. The Director,
Directorate of Vocational Education

& Training, 3, Mahapalika Marg,
P.B. No.1036, Mumbai-400 001.

...RESPONDENTS

WRIT PETITION NO.13967 OF 2017

1. Nikita d/o Pradeekumar Sudele,
Age 21 years, Occu. Education,
R/o Bhusawal, Tq. Bhusawal,
District-Jalgaon.
2. Surraiya d/o Salim Patel,
Age : 23 years, Occu. Nil,
R/o Fekri, Tq. Bhusawal,
Dist. Jalgaon.

...PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Higher & Technical Education
Department,
Government of Maharashtra,
Mantralaya, Mumbai-32.
2. The Secretary,
Department of Energy,
Govt. of Maharashtra,
Mantralaya, Mumbai-32.
3. Maharashtra State Electricity Transmission
Company Limited, Plot No.C-19,
'Prakashganga', 7th Floor,
Bandra-Kurla Complex, Bandra (E),
Mumbai-51,
Through its Managing Director.
4. The Chief Engineer,
EHV & OM, Nashik Zone,

Maharashtra State Electricity Transmission
Company Limited,
New Administrative Building,
Saikheda Road, Near Durgamata Mandir,
Jail Road, Nashik.

5. The Director,
Directorate of Vocational Education
& Training, 3, Mahapalika Marg,
P.B. No.1036, Mumbai-400 001.

...RESPONDENTS

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Shri Chandrakant K. Shinde, Advocate for the petitioners.
Shri S.J. Salgare, AGP for respondent Nos.1, 2 and 5/State.
Shri S.V. Adwant, advocate for respondent Nos.3 and
4/Company.

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**CORAM : KISHORE C. SANT
&
SUSHIL M. GHODESWAR, JJ.**

Reserved on : 08 January 2026

Pronounced on : 19 January 2026

JUDGMENT (Per Sushil M. Ghodeswar, J.) :-

1. Heard.
2. Since the parties, facts and issues in these two petitions are identical, they are being decided by this common judgment. For properly appreciating the contentions, the facts in

Writ Petition No.13975/2017 are taken into consideration in this judgment.

3. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

4. By these petitions, the petitioners are praying for quashing and setting aside the impugned decision dated 03.11.2017 rendered by respondent Nos.3 and 4 company thereby, cancelling their candidature for recruitment to the posts of Technician Grade-IV in respondent Nos.3 and 4 company on the ground that they are not possessing requisite qualifications. They further pray that their candidature for the post of Technician Grade IV be considered and they be appointed on the said post in accordance with the select/ merit list.

5. According to the petitioners, respondent No.3 published advertisement No.2/2016 on 01.04.2016 for filling up various posts of Technician Grade IV. The petitioners applied for the said post under women quota i.e. 30% reservation. The petitioners went through selection process conducted by respondent Nos.3 and 4 and their names appeared in the select/ merit list. As per the directions, the petitioners appeared before

respondent No.4 for scrutiny of documents and produced the original certificates. However, they were orally informed that their claims were kept on hold. As such, the petitioners submitted the representation. On 03.11.2017, respondent Nos.3 and 4 uploaded their decision on their website declaring that the petitioners are not possessing requisite qualification and as such, are not satisfying the terms and conditions stipulated in the advertisement. Their candidature has been cancelled on the ground that the petitioners have not passed I.T.I. (Electrician) and they are not possessing certificates of passing I.T.I. in Electrician Trade issued by the NCTVT.

6. According to the petitioners, the Government of India through its Finance Ministry has announced measures for upgradation of Industrial Training Institutes (ITI) in 2004. As per the said scheme, existing ITIs were to be upgraded into Centres of Excellence (COE) for producing multi-skilled workforce of world standard. In pursuance of the aforesaid scheme introduced by the Government of India, the State of Maharashtra on 12.12.2008 selected some ITIs from the State including ITI at Bhusawal as Centre of Excellence and accordingly, upgraded

those Institutes and designated them as the COE. The upgraded vocational courses were started from the academic year 2006-2007.

7. It is the case of the petitioners that they successfully passed Electrical Sector Trade from I.T.I., Bhusawal. The Regional Joint Director, Vocational Education and Training, Nashik, also issued the provisional National Trade Certificate to the petitioners, which indicates that the petitioners passed Electrical Sector Trade from one of the Centre of Excellence. According to the petitioners, even respondent No.3 company issued administrative circular No.505 dated 01.03.2017 and considered the Electrical Sector Trade of COE as equivalent to that of Electrician Trade of ITI. The respondent No.3 company also issued addendum No.1 dated 14.11.2017 thereby, declaring the Module Course of 'Operation and Maintenance of Equipment used in HT, LT Sub-Station and Cable Jointing' as equivalent to that of the course of ITI (Electrical) and accordingly, amended the recruitment regulations relating to qualifications for the post of Technician Grade IV.

8. According to the petitioners, the Deputy Director of

Vocational Education, State of Maharashtra, issued a clarification dated 13.11.2017 that both the courses i.e. old and upgraded one through COE are equivalent as per the Government Resolution dated 09.07.2015, therefore, COE Electrical is regarded as equivalent to the trades of Wireman and Electrician. In the meantime, the Government of Maharashtra through its Higher and Technical Education Department also issued clarification vide letter dated 31.07.2013 that the candidates who have passed Multi Skilled Training from the Centres of Excellence be regarded as having requisite qualification and such candidates be considered for recruitment. It is thereafter, the Government Resolution dated 09.07.2015 was issued clarifying the issue of equivalence awarded to certain trades conducted through the Centres of Excellence with the trades being conducted in ITIs. According to the petitioners, various departments like the Railway Board have clarified in their recruitment advertisements that the candidates who have passed upgraded courses from COE are eligible to apply for such posts.

9. The learned advocate for the petitioner Shri Shinde has invited attention of this Court to the educational qualification

and experience required for the purpose of recruiting the candidates for the post of Technician Grade IV. As per the recruitment advertisement dated 01.04.2016, qualification required by respondent Nos.3 and 4 company is to possess the National Apprenticeship Certificate issued by the National Council for Training in Vocational Trades (NCTVT) under the Apprenticeship Act, 1961 or the National Trade Certificate issued by the NCTVT after completion of trade from ITI. According to the learned advocate for the petitioners, they have participated in the selection process, they also found their names in the selection list, however, at the time of appointment, they have been informed that they were not qualified to apply for the post which is advertised as their qualification was not requisite to seek appointment. The learned advocate submitted that the petitioners are possessing COE upgraded ITI course, therefore, action of respondent Nos.3 and 4 of not considering the candidature of the petitioners on the ground that they do not have the ITI Electrician trade certificate, is illegal and inconsistent with the policy of the Government as various Departments of the Government have issued circulars thereby, clarifying that the ITI courses are equivalent to COE courses.

10. The learned advocate Shri Shinde further pointed out that after the recruitment process in question is completed, respondent No.3 has adopted the guidelines of the Government by passing the administrative circular dated 01.03.2017 on the basis of the Government Resolution dated 09.07.2015. It is informed to this Court that in the subsequent recruitment drive conducted by respondent Nos.3 and 4 for the same post, the qualification possessed by the petitioners was considered. However, in view of pendency of the instant petitions, the petitioners have not applied to respondent Nos.3 and 4 in pursuance of their fresh advertisements. Shri Shinde, therefore, submitted that the impugned decision of respondent Nos.3 and 4 rejecting candidature of the petitioners is illegal and unconstitutional.

11. The learned AGP has relied upon the affidavit in reply dated 14.11.2018 filed by respondent No.5 and submitted that the State of Maharashtra vide resolution dated 09.07.2015 made it clear that the trades which were conducted under the COE are equivalent to the trades in the ITI. The learned AGP, therefore, prayed for passing appropriate order on merits.

12. *Per contra*, the learned advocate Shri Adwant appearing for respondent Nos.3 and 4 submitted that admittedly, the petitioners were not possessing requisite educational qualification at the relevant time of recruitment advertisement, however, the petitioners had participated in the recruitment process. At the time of scrutiny of documents, it was revealed that their qualification is not as per the advertisement published on 01.04.2016 and, therefore, their candidature could not be considered.

13. Shri Adwant specifically submitted that the recruitment process was initiated in the year 2016 and the posts advertised have now been filled in. There is no vacancy. This Court has also not granted any interim order making the recruitment subject to result of these petitions. Moreover, the petitioners have also not taken any effort to apply subsequently in another recruitment drive undertaken by respondent Nos.3 and 4. They have also not approached this Court for insisting to pass interim orders in view of another recruitment drive.

14. Shri Adwant further submitted that respondent No.3 Maharashtra State Electricity Transmission Company Limited

(MSETCL) is the company incorporated under the Companies Act. The Government Resolution dated 09.07.2015 issued by the State of Maharashtra was not adopted by respondent Nos.3 and 4. The decisions in respect of recruitment and qualification are being taken by the Board of Directors of respondent No.3. The circulars or resolutions issued by the Government are not *ipso facto* applicable to respondent Nos.3 and 4 being the company though the State of Maharashtra is the major stakeholder. In short, according to Shri Adwant, the Government Resolution was not adopted by respondent Nos.3 and 4 when the recruitment process was undertaken.

15. Shri Adwant further invited attention of this Court to the order dated 04.06.2019 passed by this Court in Writ Petition No.564/2018 (***Rohini Dada Shimpi vs. The Secretary, Higher and Technical Education Department, Mumbai and others***), wherein, in identical situation this Court held that the circular dated 01.03.2017 was not in existence when the advertisement was issued and moreover, Government Resolution dated 09.07.2015 was also not adopted and accepted by respondent Nos.3 and 4. Shri Adwant, therefore, prayed that the petitions be dismissed.

16. After hearing the learned advocates for the parties, we have perused the documents brought on record. It is evident that respondent No.3 is the company incorporated under the Companies Act wherein, the State of Maharashtra has majority shareholding. The petitioners contended that the State of Maharashtra vide its Government Resolution dated 09.07.2015 has directed that the COE courses be treated equivalent to the courses of ITI. However, the fact remains that the said Government Resolution was not adopted or accepted by respondent Nos.3 and 4 at the time of recruitment process in question. The Company of the Government is not the Department of the Government and the executive instructions issued by the Government do not automatically apply to it. Respondent No.3 company is the distinct legal entity separate from the State Government. The executive instructions, Government resolutions or circulars issued by the Government are not *per se* binding on such company unless same are statutorily made applicable or expressly adopted by the Board of Directors of the company. In absence of any resolution or formal adoption, the Government circular/ resolution issued by the Government cannot be enforced against the respondent company. The service conditions of

employees of the respondent company are governed solely by its own rules and regulations. Though the petitioners contended that they were competent and qualified for the post advertised by the respondent company, however, admittedly, as per the advertisement, they were not possessing requisite qualification as desired by the respondent company at the time of their recruitment process. It is other matter that subsequently, respondent No.3 company has adopted the Government Resolution and permitted candidates who are possessing qualifications like the petitioners, to apply for the said posts in their subsequent recruitment drive. The petitioners, who have not obtained necessary interim order from this Court, were expected to apply in pursuance of the subsequent recruitment drive since their qualifications were accepted. However, having failed to do so, now it cannot be directed to respondent Nos.3 and 4 to appoint the petitioners on the said posts, which are neither vacant nor made subject to the decision of this Court.

17. Considering the peculiar facts of this case, this Court also tried to extract information from respondent Nos.3 and 4 as to whether, there are vacant posts available. However, Shri

Adwant, after taking instructions from respondent Nos.3 and 4 through email, submitted that now the posts are not vacant and they are filling the posts through contract basis.

18. In the above circumstances and having regard to the peculiar facts of the case, particularly that the petitioners had participated in the selection process, their names appeared in the select/merit list, and that subsequently respondent No.3 has itself accepted the equivalence of the qualification possessed by the petitioners, this Court is of the view that the petitioners deserve limited equitable relief. Therefore, to secure ends of justice, respondent Nos.3 and 4 are directed that in the event of future recruitment to the post of Technician Grade-IV or equivalent post, may be permanent or on contract basis, the candidature of the petitioners shall be considered in accordance with the prevailing recruitment rules and qualifications, without insisting upon fresh experience, and by granting them appropriate age relaxation. In near future, if any vacancy arises on contract basis and if the petitioners apply for such contractual vacancy, it is expected that respondent Nos.3 and 4 would consider candidature of the petitioners sympathetically and positively.

19. The Writ Petitions are accordingly, disposed of.
20. Rule is, accordingly, discharged.

kps (SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)