

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.5294 OF 2019**

Supriya Vinayak Gawande  
Age : 28 years, Occu : Service,  
R/o. Petur, Post Sukanegaon,  
Tal. Wani, Dist. Yevatmal

.. Petitioner

Versus

1. The State of Maharashtra  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai.
2. The Collector,  
Nanded, Dist. Nanded
3. The Principal Secretary and  
Residential Deputy Collector,  
District Selection Committee,  
Nanded, Tq. and Dist. Nanded
4. Priyanka Sandipan Bane  
Age : 23 years, Occu : Nil,  
R/o. Radhamohan Niwas,  
Shree Colony, M.G. Road,  
Ahmedpur, Dist. Latur

.. Respondents

...

Mr. Balbhim R. Kedar, Advocate for Petitioner  
Mrs. R.P. Gour, AGP for Respondent – State  
Mr. K.G. Salunke and Mr. Anirudha A. Nimbalkar, Advocate for  
Respondent No.4

...

WITH

**CIVIL APPLICATION NO.9298 OF 2021**

IN

**WRIT PETITION NO.5294 OF 2019**

...

**CORAM : MANGESH S. PATIL &  
SANDEEP V. MARNE, JJ.**

**RESERVED ON : 27-07-2022  
PRONOUNCED ON : 02-08-2022**

**JUDGMENT (PER SANDEEP V. MARNE, J.) :**

1. Heard. Rule. It is made returnable forthwith. Learned AGP Mrs. Gour and learned advocate Mr. Nimbalkar waive service. At their joint request the matter is heard finally at the admission stage.

2. The petitioner assails order dated 22.04.2019 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No.813 of 2015, which was instituted by respondent no.4 herein challenging selection as well as appointment of the petitioner to the post of Talathi and seeking her own appointment in NT-C Female Category. By order dated 22.04.2019, the learned Tribunal was pleased to allow the original application and quashed and set aside selection and appointment of the petitioner on the post of Talathi. The Tribunal further directed appointment of respondent no.4 on the post of Talathi in the category of NT-C Female.

3. When the petition came up on 03.05.2019, this Court passed order directing position as on the date to be maintained till the next date. The interim protection has been continued from time to time and due to interim protection the petitioner continues to work on the post of Talathi till date.

4. Briefly stated, facts of the case are as follows:

. An advertisement was published by respondent no.2 on 23.06.2015 for filling up *inter alia* the post of Talathi. Total 40 posts of Talathi were advertised divided into various categories and it appears that one of the posts was reserved for NT-C Female category. Both, petitioner and respondent no.4 applied in pursuance of the advertisement.

5. It is the case of the petitioner that she belongs to NT-C category and as per the requirement of the advertisement, she was in possession of Non Creamy Layer status certificate bearing no.7586 issued on 26.06.2013, which was valid upto 31.03.2015 and accordingly she stated the number of the certificate in the online application form. Even though the certificate was valid upto 31.03.2015, the petitioner stated in her online application form that it was valid upto 31.03.2016. Since the advertisement required Non

Creamy Layer Certificate issued after 01.03.2015, it appears that the petitioner procured a fresh Non Creamy Layer status Certificate dated 17.07.2015 which was valid upto 31.03.2018.

6. It is the case of the petitioner that she was not supposed to upload any certificate along with her online application form and that mere possession of the certificate was sufficient. The petitioner further submits that as on the date of document verification she was in possession of the fresh certificate issued on 17.07.2015, which she produced during the process of document verification. In the select list that was prepared, the petitioner was placed at serial no.1 amongst NT-C Female Category, whereas respondent no.4 was placed at serial no.2. Accordingly, the petitioner was appointed on the post of Talathi vide appointment order dated 01.12.2015 and she joined the post on 02.12.2015.

7. The selection and appointment of the petitioner was questioned by respondent no.4 by instituting Original Application No.813 of 2015 contending that the petitioner gave incorrect information in the online application form. Additionally, it was contended that the petitioner did not possess Non Creamy Layer status Certificate issued after 01.04.2015 as on the date of filling up

of online form. Respondent no.4 questioned the action of the respondents in entertaining the subsequent document in the form of fresh Non Creamy Layer status certificate dated 17.07.2015 which was never mentioned in the online application form of the petitioner.

8. The learned Tribunal passed order dated 22.04.2019 holding that the Non Creamy Layer Certificate relied upon / furnished by the petitioner violated three mandatory conditions of the advertisement. It, therefore, held that participation of the petitioner and her selection in the process was illegal. Accordingly, the learned Tribunal proceeded to set aside the selection and appointment of the petitioner and directed appointment of respondent no.4 in her place.

9. Appearing on behalf of the petitioner, Shri. Balbhim Kedar, learned advocate submitted that the status of the petitioner as Non Creamy Layer is not in dispute. He further contended that no document was required to be uploaded along with the online application form and therefore, the petitioner was justified in procuring and submitting the fresh Non Creamy Layer status Certificate dated 17.07.2015 during the course of document verification. The learned advocate further submitted that the

petitioner was already in possession of the earlier Non Creamy Layer Certificate, which was valid upto 31.03.2015 and accordingly, she rightly stated the number of the said certificate being 7586 in her online application form. So far as the discrepancy in the date of validity of the certificate no.7586 as stated in the online application form is concerned, the learned advocate submitted that since the petitioner was already in possession of the Certificate for three years, valid upto 31.03.2016, she stated the date as “31.03.2016” in the online application form under a *bona fide* belief that its validity was bound to be extended upto 31.03.2016. The learned advocate, therefore, submitted that the petitioner fulfilled the eligibility criteria and was rightly selected and appointed on the post of Talathi.

10. In support of his contention that the petitioner’s eligibility could not be questioned on account of availability of the earlier and subsequent Non Creamy Layer Certificate, Mr. Kedar has relied upon following Orders / judgments :

- (i) Order dated 29.07.2015 passed by this Court in **Writ Petition No.4954 of 2015, Sachin Narayan Sangle VS. The State of Maharashtra and another.**
- (ii) Judgement dated 19.09.2016 passed by this Court in **Writ Petition No.4894 of 2013, Rajnish Marotrao Andhe VS. The State of Maharashtra and others.**
- (iii) Judgment dated 24.03.2015 passed by this Court in Writ Petition No.11722 of 2014, **Arvind Motiram Chavan VS. The**

**State of Maharashtra and others.**

11. In support of his contention that even if there is any minor discrepancy in filling up the online application form, it is required to be ignored, Mr. Kedar has relied upon following judgments :

- (i) **Commissioner of Police and others VS. Sandeep Kumar, (2011) 4 SCC 644.**
- (ii) Judgment dated 29.10.2014 passed by this Court in **Writ Petition No.1994 of 2002, the State of Maharashtra and others Vs. Balu Gahininath Bahirwal.**

12. Mr. Kedar also contended that there were at least four cases in which the concerned candidates did not fill up full information, but have been appointed without any objection and therefore, the petitioner could not be discriminated. He further contended that respondent no.4 is no longer jobless and has, in the meantime, been appointed on the post of clerk in the police department in the year 2015. Mr. Kedar has also relied upon salary certificate dated 22.04.2019 which mentions the status of the petitioner as a permanent / confirmed employee.

13. Per contra, Mr. A.A. Nimbalkar, learned Advocate appearing for respondent no.4 laid stress on various stipulations of the advertisement under which the candidates were warned that if

any information filled in the online application form was found to be incorrect, the selection of such candidate was to be nullified. He particularly referred to the condition in the advertisement which required all reserved category candidates, except SC / ST, to possess Non Creamy Layer Certificate issued by the competent authority in respect of the year 2015-16 issued after 01.04.2015. He contended that under the stipulation of the advertisement, no document which was not referred to in the online application form could have been taken into consideration for determining eligibility of the candidates.

14. Referring to the date 31.03.2016 as the date of validity of the Non Creamy Layer Certificate as stated by the petitioner in her online application form, Mr. Nimbalkar submitted that the petitioner had given false information in the application form. Having mentioned certificate no.7586 in the online application form it was not permissible for her to produce any other certificate in support of her eligibility during the process of document verification.

15. In support of his contentions, Mr. Nimbalkar has relied upon following decisions :

- (i) **Bedanga Talukdar Vs. Saifudaullah Khan & Ors, 2012 AIR (SC) 1803.**
- (ii) **Ashok Kumar Sharma Vs. Chander Shekhar, 1997 (4) SCC 18.**

- (iii) Order dated 13.01.2020 passed by this Court in **Writ Petition No.9974 of 2019, Rajendra Bapurao Hande Vs. Bharat Petroleum Corporation Ltd and another.**
- (iv) **Bharat Petroleum Corporation Ltd and Ors Vs. Swapnil Singh, MANU/SC/1572/2015.**
- (v) Order dated 06.01.2020 passed by this Court in **Writ Petition No.4672 of 2019, Late Hariwanshrai Bacchan Bahu Uddeshiya Sevabhavi Sanstha Paradh Bk. Vs. The State of Maharashtra and Others.**
- (vi) **Andhra Pradesh Public Service Commission Vs. Koneti Venkateswarulu, 2005 AIR (SC) 4292.**

16. We have carefully gone through the entire record of the case. Since the entire controversy revolves around the eligibility of the petitioner for being considered in the selection, it would be necessary to reproduce some of the terms and conditions of the advertisement:

“अर्जदाराने अर्ज भरतांना वस्तुनिष्ठ व अचूक माहिती भरावी तसेच अर्जासोबत कोणतेही प्रमाणपत्रे व इतर कागदपत्रे जोडू नयेत. भरलेल्या माहितीच्या आधारेच निवड करण्यात येईल तसेच निवडीनंतर माहिती चूक आढळल्यास त्यांची निवड रद्द करण्यात येईल व पुढील गुणानुक्रमे असलेल्या उमेदवारास संधी देण्यात येईल. तसेच अर्ज करतांना आपल्या सर्व शैक्षणिक व इतर बाबींची पुर्ण माहिती नमुद करावी. भरलेल्या माहिती व्यतिरिक्त इतर गुणवत्ता व माहितीची प्रमाणपत्रे / अभिलेखे नंतर सादर केल्यास विचारात घेतले जाणार नाहीत.”

“अनुसूचित जाती / अनुसूचित जमाती / खुला प्रवर्ग वगळून अन्य सर्व मागासवर्गीय उमेदवारांसाठी सन

2015-16 या वर्षाचे म्हणजे दिनांक 01.04.2015 नंतर निर्गमित केलेले उन्नत व प्रगत गटात मोडत नसल्याबाबतचे सक्षम अधिकारी यांचे प्रमाणपत्र असणे आवश्यक राहिल.”

“मागासवर्ग प्रवर्गातील इतर मागासवर्ग विजाअ, भजब, भजक व भजड या प्रवर्गातील उन्नत आणि प्रगत व्यक्ती अथवा गटात मोडत नसलेल्या महिला सदस्यांनी महिलांच्या 30 टक्के आरक्षणासाठी किमिलेअर मध्ये मोडत नसल्याचे प्रमाणपत्राची माहिती अर्जामध्ये नमूद करावी व मूळ प्रमाणपत्र अंतिम निवडीच्या वेळी सादर करणे आवश्यक आहे.”

“अर्जदाराने Online अर्ज भरतांना वस्तुनिष्ठ व अचूक माहिती भरावी तसेच अर्जासोबत कोणतेही प्रमाणपत्रे व इतर कागदपत्रे जोडू नयेत किंवा अपलोड करू नयेत. भरलेल्या माहितीच्या आधारेच निवड करण्यात येईल तसेच निवडीनंतर माहिती चूक आढळल्यास त्यांची निवड रद्द करण्यात येईल व पुढील गुणानूकमे असलेल्या उमेदवारास संधी देण्यात येईल. तसेच अर्ज करतांना आपल्या सर्व शैक्षणिक व इतर बाबींची पुर्ण माहिती नमूद करावी. भरलेल्या माहिती व्यतिरिक्त इतर गुणवत्ता व माहितीची प्रमाणपत्रे / अभिलेखे नंतर सादर केल्यास विचारात घेतले जाणार नाहीत.”

“तलाठी पदाच्या परीक्षा दि.19.07.2015 रोजी दुपारी 2.00 ते 4.00 या कालावधीत नांदेड येथे घेण्यात येतील. उमेदवाराने भरलेल्या माहिती आधारे त्यास प्रवेशपत्र देउन परीक्षेस पात्र करण्यात येईल. उमेदवारांची निवड अंतिम गुणवत्ता यादीत झाल्यास online अर्जाप्रमाणे त्याची सर्व मुळ प्रमाणपत्रे / अभिलेखे यांची सत्यता पडताळणी करण्यात येईल. सत्यता पडताळणीच्या वेळेस उमेदवाराने online भरलेल्या अर्जात नमुद केलेल्या माहितीव्यतिरिक्त सादर केलेल्या इतर कागदपत्रांचा विचार केला जाणार नाही. तसेच पडताळणी करतांना उमेदवाराने online भरलेल्या अर्जात नमुद केलेल्या बाबींचे प्रमाणपत्र / अभिलेख तो सादर करण्यास असमर्थ ठरल्यास त्याला भरती प्रक्रियेतून बाद करण्यात येईल.”

17. The advertisement thus required the candidates to fill up

correct information in the online application form and not to annex or upload any documents or certificates. The advertisement also required the candidates to possess Non Creamy Layer Certificate in respect of the year 2015-16 issued after 01.04.2015. The advertisement contained specific prohibition on consideration of any document, details of which were not to be found in the online application form. It is on account of these stipulations that the learned Tribunal arrived at a conclusion that the Non Creamy Layer Certificate relied upon / furnished by the petitioner violated three mandatory conditions.

18. After perusal of specific condition in the advertisement for possession of Non Creamy Layer Certificate of the year 2015-16 issued after 01.04.2015, the petitioner ought to have procured such certificate before filling up the online application form and details of such certificate ought to have been stated in the form. Admittedly, the petitioner did not possess Non Creamy Layer Certificate issued after 01.04.2015 as on the date of filling up and uploading the online application form i.e. on 13.07.2015. Such certificate was issued to the petitioner only on 17.07.2015 i.e. after filling up of the online application form. Since the petitioner was not in possession of Non Creamy Layer Certificate issued after 01.04.2015, perhaps, she chose

to mention the number of Non Creamy Layer Certificate being “7586” which was in her possession at the time of filling up of online application form. However, the certificate was valid only upto 31.03.2015. Thus, as on the date of filling up of the form on 13.07.2015 there was no valid Non Creamy Layer Certificate in her possession. To overcome this defect, the petitioner appears to have stated that the validity of the Non Creamy Layer Certificate no.7586 was upto 31.03.2016. This statement was false to her knowledge. Thus, the statement in the online application form that the certificate no.7586 was valid upto 31.03.2016 appears to have been consciously made by her with a view to circumvent the reality that as on the date of filling up of the online application form i.e. 13.07.2015 she was not in possession of any valid Non Creamy Layer Certificate. The validity of certificate no.7586 had already expired on 13.03.2015. The petitioner thus knowingly gave false information in her online application form. This conduct of the petitioner does not commend us.

19. Apart from deplorable conduct of the petitioner in knowingly making false statement in her online application form, there was specific prohibition in the advertisement for considering any document or certificate, details of which were not mentioned in

the online application form. Since Certificate No.7586 was mentioned by her in online application form, the authorities could not have taken into consideration an altogether different certificate, being certificate dated 17.07.2015 for considering her eligibility. The certificate dated 17.07.2015 was issued well after the petitioner submitted her application on 13.07.2015. Therefore, the subsequent certificate dated 17.07.2015 ought to have been ignored by the concerned authorities. On the basis of Certificate No.7586, which was valid only till 31.03.2015, the petitioner was not eligible to apply for the post of Talathi in pursuance to the advertisement.

20. We, therefore, do not find any infirmity in the conclusion reached by the learned Tribunal to the effect that the petitioner was ineligible for participating in the selection process.

21. Various decisions cited by learned advocate Mr. Kedar in support of his contentions are clearly distinguishable. Firstly, in none of the judgments, the issue of giving false information in the application form was involved. Secondly, stipulation of ignoring any document not mentioned in the form was not involved in those cases. Therefore, the judgments in the cases of **Sachin Narayan Sangle**, **Rajnish Marotrao Andhe** (supra) and **Arvind Motiram Chavan** (supra)

have no application to the peculiar facts and circumstances of the present case.

22. Reliance of learned advocate Mr. Kedar on the decisions of **Commissioner of Police Vs. Sandeep Kumar** (supra) and **the State of Maharashtra Vs. Balu Gahininath Bahirwal** (supra) is also misplaced. These decisions relate to disqualification of candidature on the ground of involvement of candidates in criminal cases of minor nature when they were relatively young. The issue involved in the present case is altogether different wherein the petitioner has knowingly given false information in her online application form for the purpose of claiming eligibility in the selection process.

23. On the other hand, the decisions relied upon by Shri. Nimbalkar, learned advocate appearing for respondent no.4 are apposite:

(i) In **Bedanga Talukdar Vs. Saifudaullah Khan & Ors** (supra) the Hon'ble Supreme Court has held in para nos.28 and 31 as under :-

“28. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with [Article 14](#) of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process

has to be conducted strictly in accordance with the stipulated selection procedure.

Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete.

Relaxation of any condition in advertisement without due publication would be contrary to the mandate of quality contained in Articles 14 and 16 of the Constitution of India.

31. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice.

In such circumstances, the High Court could not have issued the impugned direction to consider the claim of respondent No.1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”

(ii) In **Ashok Kumar Sharma** Vs. **Chander Shekhar** (supra)

the Hon'ble Supreme Court has held in para no.6 as under :-

“6. The Review petitions came up for final hearing on March 3, 1997. We heard the learned counsel for the review petitioners, for the State of Jammu and Kashmir and for the 33 respondent. So far as the first issue referred to in our order dated 1st September, 1995 is concerned, we are of the

respectful opinion that majority judgment (rendered by the Dr. T.K. Thommen and V. Ramaswami, JJ) is unsustainable in law. the proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their application ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority Judgment. This is also the proposition affirmed in *Rekha Chaturvedi (Smt.) v. University of Rajasthan and others* [1993 Suppl. (3) S.C.C 168]. The reasoning in majority opinion that by allowing the 33 respondents to appear for the interview, the Recruiting Authority was able to get the bests talent available and that such course was in furtherance of public interest is, with respect, an impermissible Justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have allowed to appear for interview.”

(iii) In **Bharat Petroleum Corporation Ltd and Ors Vs. Swapnil Singh** (supra), the Hon'ble Supreme Court has held in para no.7 as under :-

“7. We have gone through the records of the case along with the assistance of learned counsel for the parties and we find that the brochure read with the application form is absolutely clear in the sense that the applicant must be the owner of the specified area of land or must have a registered lease deed of the specified area of land on the date of application. The admitted

position (which is also clear from the counter affidavit filed by the respondent in this Court) is that on 13<sup>th</sup> September, 2011 when the application for allotment was made, the respondent was neither the owner of any land nor had any registered sale deed/lease deed in her name. In fact, the lease deed came into existence only on 20<sup>th</sup> December, 2012 and that was registered on 21st December, 2012. Clearly, on the date of the application, the respondent was not eligible in terms of the brochure and the application form.”

(iv) In **Rajendra Bapurao Hande Vs. Bharat Petroleum Corporation**

**Ltd** (supra) this Court has held in para 6 and 7 as under :-

“6. At the time of filling the application online, the petitioner is not required to submit the documents. It is on the basis of the information given by the petitioner in the application, the respondent Corporation processes the papers. The petitioner, in no uncertain words, represented that he is to be considered in Group-1 and that he possesses Advocate’s declaration to that effect. If the petitioner would have represented as on the date of filing of the application that the petitioner was not possessing the Advocate’s declaration/letter, the petitioner’s application could not have been considered from Group-1. However, the petitioner represented that he possesses the Advocate’s letter and on the basis of that letter, the petitioner said his land offered, be considered in Group-1. On the basis of such representation, the petitioner was considered in Group-1. It is not disputed that as on the date of the application filled in by the petitioner viz. 25.12.2018, the petitioner was not possessing the Advocate’s declaration. The petitioner could get Advocate’s declaration on 24.06.2019.

7. The petitioner did not fill in the correct information in the application. This Court cannot exercise the jurisdiction in favour of a person who has filled in correct information and made wrong representation.”

(v) In **Late Hariwanshrai Bacchan Bahu Uddeshiya Sevabhavi**

**Sanstha Paradh Bk.** (supra) this Court has held in para no.7 as

under :-

“5. According to the petitioner, the petitioner did not have the fixed deposit amount in the Bank. The institute is required to possess fixed deposit receipt of Rs.7,00,000/- in the Bank account at the time of submitting the proposal. Respondent no.5 had made a fixed deposit receipt of Rs.2,00,000/- on 27.11.2015 and withdrew the said fixed deposit receipt on 13.04.2016. The proposal was recommended by the University of the petitioner and respondent no. 5 in November-2018. On the said date, respondent no.5 had not deposited any amount as fixed deposit with the Bank. Respondent no. 5 produced a forged receipt to show that an amount of Rs.7,00,000/- is deposited in the fixed deposit with the Bank of Maharashtra on 27.09.2018. The same is forged receipt. The said fixed deposit was never created by respondent no.5.”

24. In **Andhra Pradesh Public Service Commission Vs. Koneti Venkateswarulu** (supra), the Supreme Court has come heavily on the respondent therein, who had indulged in the conduct of suppression of information. Invoking the maxim of *suppressio veri* and *suggestio falsi*, it has held in para no.10 of the judgment as under :-

“10. We are unable to accept the contention of the learned counsel for the First Respondent. As to the purpose for which the information is called, the employer is the ultimate judge. It is not open to the candidate to sit in judgment about the relevance of the information called for and decide to supply it or not. There is no doubt that the application called for full employment particulars vide Column 11. Similarly, Annexure III contained an express declaration of not working in any public or private employment. We are also unable to accept the contention that it was inadvertence which led the First Respondent to leave the particulars in Column 11 blank and make the declaration of non-employment in Annexure III to the application. The application was filed on 24.7.1999, the examination was held on 24.10.1999, and the interview call was given on 31.1.2000. At no point of time did the First Respondent inform the appellant commission that there was a bonafide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant commission discovered by itself that there was *suppressio veri* and *suggestio falsi* on the part of the First Respondent in the application that

the respondent came forward with an excuse that it was due to inadvertence. That there has been suppressio veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated from inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of Kendriya Vidyalaya Sangathan (supra) and contending that a person who indulges in such suppressio veri and suggestio falsi and obtains employment by false pretence does not deserve any public employment. We completely endorse this view.”

25. We have already come to the conclusions that the petitioner, far from being eligible to apply for selection, in fact indulged in deplorable act of giving false information in the form. Besides, inconsistent with the requirement of the advertisement she was allowed to produce a certificate which was not mentioned in the application form and which was also of a future date. Therefore, no equities can be adjusted in her favour by reason of continuation of service during pendency of the proceedings before the Tribunal and this Court. Also, mere fact of appointment of Respondent No.4 in another service cannot be a reason to condone the lapses committed by the petitioner.

26. In the result, we do not find any infirmity in the view taken by learned Tribunal in its order dated 22.04.2019. It is upheld and the petition is dismissed. The interim protection granted in favour of the petitioner is vacated. There shall be no order as to costs.

27. Rule is discharged.

28. Pending Civil Application stands disposed of.

( SANDEEP V. MARNE, J. )

( MANGESH S. PATIL, J. )

GGP