

CASE NO.:
Appeal (civil) 595 of 2002

PETITIONER:
R.B. Giripunje & Ors.

RESPONDENT:
State of Maharashtra & Ors.

DATE OF JUDGMENT: 13/03/2008

BENCH:
A.K.MATHUR & LOKESHWAR SINGH PANTA

JUDGMENT:
JUDGMENT
O R D E R

1. Heard learned counsel for the parties.
2. This appeal by special leave petition is directed against the judgment and order dated 27.8.2001 passed by the High Court of Judicature at Bombay, Nagpur Bench whereby the Division Bench of the High Court has held that the appellants who does not possess the basic qualification i.e. a Diploma in Agriculture (two years' course) and merely possess a Degree in Agriculture or higher qualification are not eligible for being considered for the post of Gram Sevak. It is also observed in the impugned judgment that a candidate who only possesses a Degree in Agriculture can be given preferential right to be considered for appointment as Gram Sevak but in the absence of basic qualification of Diploma in Agriculture (two years' course) he cannot be considered for appointment to the post of Gram Sevak. Aggrieved against the impugned judgment and order, the present appeal has been preferred.
3. The brief facts are that the appellants herein are Graduates in Agriculture and appellant No. 4 is a Post Graduate in Agriculture. All the appellants were registered with the Employment Exchange. The appellants challenged the action of respondent No. 2 - Chief Executive Officer, Zilla Parishad, Gondia, Maharashtra in not issuing letter to them for interview for the post of Gram Sevak, which was scheduled to be held on 17th August, 2001. It is alleged that the appellants were eligible for consideration to the post of Gram Sevak as they possessed requisite qualification as per the Government Resolution dated 6.6.2001. In these circumstances, the appellants herein filed a writ petition before the High Court of Bombay, Bench at Nagpur challenging the action of respondent No.2 herein in not calling them for interview to the post of Gram Sevak. As per Government Resolution dated 6.6.2001, under the Maharashtra Zilla Parishads (Recruitment) Rules the requirement for appointment to the post of Gram Sevak was Secondary School Certificate or any equivalent qualification and Diploma in Agriculture (two years' course) and preference needs to be given to the candidate, who possesses Degree in Agriculture or higher qualification or experience in social services and with rural base.
4. According to the writ petitioners-appellants they possess higher qualification, i.e. a Degree in Agriculture and, therefore, they are eligible to be considered for the post of Gram Sevak. The writ petition was contested by the respondents and they took the stand that the requisite qualification for appointment to the post of Gram Sevak is a Diploma in Agriculture (two years' course) and if a candidate possesses this qualification alongwith a Degree in Agriculture then only he can be considered and in case the candidate merely possesses a Degree in Agriculture and not a Diploma in Agriculture (two years' course), he is not eligible for being considered for the post of Gram Sevak. The High Court after considering the matter, upheld the contention of the respondents.
5. We have heard learned counsel for the parties and perused the record. According to him as per the Government Resolution dated 6.6.2001, the requirement for the post of Gram Sevak is Secondary School Certificate or any equivalent qualification and Diploma in Agriculture (two years' course) and preference needs to be given to the candidate who possesses Degree in Agriculture or higher qualification or experience in social services and with rural base.
6. A plain and simple reading of the the Government Resolution dated 6.6.2001 makes it clear that if a person with a Secondary School Certificate alongwith a Degree in

Agriculture is available then he is certainly entitled to be given preferential consideration over a candidate who possesses a Secondary School Certificate with a Diploma in Agriculture (two years' course). It is wrong to say that a person who possesses the Diploma then he should also possess a Degree in Agriculture for being considered for Gram Sevak. With great respect to the Division Bench of the High Court, we do not subscribe to the interpretation given by the Division Bench. The expression 'preference' vis-a-vis a person having Diploma in Agriculture (two years' course) and a person having Degree in Agriculture means that a candidate having Degree in Agriculture shall be given preference over a candidate having Diploma in Agriculture. In our view the interpretation given by the High Court is wrong and there is no two opinion in the matter that a Diploma is lower qualification than a Degree. Once a candidate possesses a Degree then he has to be given preference as against a candidate who possesses a Diploma.

7. Learned counsel for the respondents submitted that after the present controversy, the Government has passed a new Resolution and in pursuance thereof recruitment has already taken place and the said new Resolution was also subject matter of challenge before the High Court of Bombay, Bench at Aurangabad. The Division Bench of High Court upheld the new Resolution and the special leave petition was preferred against that order has also been dismissed in limine by this Court.

8. Be that as it may, so far as the case at hand is concerned, we are of the opinion that the interpretation given by the Division Bench of the High Court in the impugned judgment and order is not sustainable and accordingly we allow this appeal and set aside the impugned judgment and order. The respondents are left to make the appointments in accordance with law.

Appeal allowed. No order as to costs.