

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 266 OF 2020**

DISTRICT:- BEED.

Suvarna d/o Goraksha Randhawane,  
Age: 28 years, Occ.: Nil,  
R/o. At Post : Ashti, Tq. Ashti,  
Dist. Beed.

.. **APPLICANT**

**V E R S U S**

1. The Chairman,  
District Selection Committee Beed  
District Collector, Beed.  
Having Office at :  
Collectorate Office, Beed.

2. Monika Arvind Vasu  
Age : Major, years, Occu.: Nil,  
Having Official address as District  
Collector Office, Beed.

3. Asha Wasudeo Sahare  
Age : Major, years, Occ. : Nil,  
Having Official address as  
District Collector Office, Beed.

.. RESPONDENTS

-----  
APPEARANCE : Shri Jitendra Patil, learned counsel  
holding for Shri Ganesh Gadhe,  
learned counsel for the applicant.

: Smt. M.S. Patni, learned Presenting  
Officer for the respondents.

-----  
**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN  
AND  
SHRI BIJAY KUMAR, MEMBER (A)**

-----  
**DATE : 28.09.2022**

**ORDER**

[Per : Hon'ble Justice P.R. Bora, Vice Chairman]

Heard Shri Jitendra Patil, learned counsel holding for Shri Ganesh Gadhe, learned counsel for the applicant and Smt. M.S. Patni, learned Presenting Officer for the respondent authorities.

2. Grievance of the applicant in the present Original Application is that respondent No. 1 has wrongly rejected her candidature on the ground that Non-Creamy-Layer certificate furnished by the applicant was not as prescribed in the advertisement.

3. Few facts which are relevant, as well as, necessary to decide the grievance raised in the present Original Application, in brief are thus,-

The applicant belongs to OBC category. She had applied for the post of Talathi in pursuance of the advertisement issued by respondent No. 1 on 26.2.2019. Total 66 posts were advertised. 21 out of them were reserved for the OBC candidates. 6 out of said 21 posts were reserved for OBC female. The applicant applied for the said post online for the

post reserved for OBC (Woman). On 6.11.2019, respondent No. 1 published the merit list. The applicant had received 160 marks in the written examination out of 200. As contended in the application the applicant had received 2<sup>nd</sup> highest marks, 162 was the highest score. The applicant was thus entitled to be selected on her own merit in the quota reserved for OBC (Female). She was however, not selected on the ground that the Non-Creamy-Layer Certificate submitted by her was not valid up to 31.3.2019 as prescribed in the advertisement. Representation was, therefore, made by the applicant to the respondent authorities, however, it was not considered. The applicant has, therefore, approached this Tribunal by filing the present Original Application.

4. We have perused the Non-Creamy-Layer certificates which were produced by the applicant with the respondent authorities. Two Non-Creamy-Layer certificates were produced by her; one is dated 25.7.2014 and another is dated 24.10.2019. The first certificate was stated to be valid till 31.3.2017; whereas the second certificate was stated to be valid till 31.3.2022. Both these certificates were not accepted and the candidature of the applicant came to be rejected on

the ground that she did not file the Non-Creamy-Layer Certificate valid up to 31.3.2019.

5. It has to be examined whether such rejection can be sustained. As about the validity period of the Non-Creamy-Layer certificate, the Government had issued the Circular dated 17.8.2013. In the said circular certain guidelines are laid down for issuance of Non-Creamy-Layer certificate to the eligible candidates. As has been mentioned in the said circular, the Non-Creamy-Layer certificate is to be issued having taking into account the income of the parents or guardians of the candidate of preceding three years. In each of the said preceding year the total annual income of the person concerned must be less than the limit fixed. If the income of the parents of the candidate is found exceeding the limited in any of the said preceding three years, Non-Creamy-Layer certificate for the said year is not issued.

6. In the instant matter the applicant had submitted Non-Creamy-Layer certificate dated 24.10.2019, which is stated to be valid up to 31.3.2022. In view of the circular dated 17.8.2013, it is obvious that the aforesaid certificate has been issued on the basis of income of the parents of the applicant

of preceding three years. In the certificate itself it has been stated that income certificates for last three years issued by the Tahsildar were verified before granting the said certificate. It is thus, evident that in the preceding three years the income of the parents of the applicant was less than the outer limit prescribed. According to the contention of the respondents, the applicant was supposed to place on record Non-Creamy-Layer certificate valid up to 31.3.2019. From the Non-Creamy-Layer certificate submitted by the applicant it is quite evident that the income of her parents was less than the outer limit in preceding three years from 24.10.2019. Therefore, there may not be any difficulty in holding that the applicant was falling in the category of Non-Creamy-Layer.

7. As has been held by the Hon'ble Apex Court in the case of **Dolly Chhanda Vs. Chairman, JEE & Ors. (AIR 2004 SC 5043)**, it cannot be disputed that a candidate must hold the requisite eligibility, qualification by the date fixed. This has to be established by producing the necessary certificates, degrees, mark-sheets etc. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates

have to be produced. These are documents in the nature of proof of holding of particular qualification or entitlement for benefit of reservation. The Hon'ble Apex Court has further held that depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

8. In the present matter the applicant did possess the Non-Creamy-Layer Certificate dated 24.10.2019 valid up to 31<sup>st</sup> March, 2022 and did not possess such certificate expressly mentioning therein that it is valid up to 31.3.2019. However, there are documents on record showing that in the years 2017-18, 2018-19 and 2019-20 the annual income of the parents of the applicant was within the outer limit fixed by the Government. In the circumstances, we are inclined to allow the present Original Application. Hence, the following order: -

**ORDER**

Respondent No. 1 shall include the name of the present applicant in the select list dated 10.7.2020 in OBC (Woman) category and issue the order of appointment in her favour, if she is otherwise found eligible to be appointed on the post of Talathi within the period of six weeks from the date of this order.

(ii) The Original Application is allowed in the aforesaid terms. There shall be no order as to costs.

**MEMBER (A)****VICE CHAIRMAN**

O.A.NO.266-2020 (DB)-2022-HDD