

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI****BENCH AT AURANGABAD****ORIGINAL APPLICATION NO. 304 OF 2014**

DIST. : AHMEDNAGAR

1. Popat S/o. Karbhari Bachkar,  
Age: 40 years, Occu.Agril.,  
R/o.Manjari, Tq. Rahuri,  
Dist. Ahmednagar,
2. Shrikant S/o. Keru Bachkar,  
Age: 25 years, Occu.Nil.  
R/o.Pimpri-Avghad, Tq. Rahuri,  
Dist. Ahmednagar.
3. Vikram S/o. Keru Bachkar,  
Age: 24 years, Occu.Nil,  
R/o.Pimpri-Avghad, Tq. Rahuri,  
Dist. Ahmednagar.
4. Rahul S/o. Bapusaheb Bachkar,  
Age: 25 years, Occu.Nil,  
R/o.Pimpri-Avghad, Tq. Rahuri,  
Dist. Ahmednagar.
5. Damu S/o. Karbhari Bachkar,  
Age: 30 years, Occu.Nil,  
R/o.Wanjalpoi, Tq. Rahuri,  
Dist. Ahmednagar.
6. Raosaheb S/o. Karbhari Bachkar,  
Age: 30 years, Occu.Nil,  
R/o.Manjari, Tq. Rahuri,  
Dist. Ahmednagar.
7. Bhausahab S/o. Manaji Kale,  
Age: 25 years, Occu.Nil,  
R/o. Majjari, Tq. Rahuri,  
Dist. Ahmednagar.
8. Manjabapu S/o. Suryabhan Bachkar,  
Age: 24 years, Occu.Nil,  
R/o.Tamnara-Akhada, Tq. Rahuri,  
Dist. Ahmednagar.)

9. Yogesh S/o. Karbhari Pathare,  
Age: 27 years, Occu.Nil, R/o.Patharwadi,  
Tq. Rahuri, Dist. Ahmednagar..
10. Thakaji S/o. Changdeo Bachkar,  
Age: 35 years, Occu.Nil, R/o Wadner,  
To Rahuri, Dist. Ahmednagar
11. Thakaji S/o. Khandu Kolekar,  
Age: 32 years, Occu. Nil R/o Amalner.  
Tq Rahuri, Dist. Ahmednagar.
12. Limbaji S/o. Arjun Bachkar,  
Age 24 years, Occu.Nil..  
R/o Pimpri-Avghad, Tq. Rahuri,  
Dist. Ahmednagar..
13. Gangadhar S/o. Arjun Bachkar,  
Age 26 years, Occu.Nil,  
R/o Pimpri-Avghad, Tq Rahuri,  
Dist. Ahmednagar
14. Balasaheb S/o. Nanasahab Bachkar,  
Age: 28 years, Occu.Nil, R/o Nandur,  
Tq. Rahuri, Dist. Ahmednagar.
15. Rakhmaji S/o. Rajaram Ayanar,  
Age: 35 years, Occu. Nil,  
R/o Watapur, Tq. Newasa,  
Dist. Ahmednagar
16. Babasaheb S/o. Nana Shelar,  
Age: 36 years, Occu. Nil,  
R/o.Kondwad, Tq. Rahuri,  
Dist. Ahmednagar.
17. Ankush S/o Bhaurao Doiphode,  
Age: 30 years, Occu. Nil,  
R/o Sajalpur, Tq. Rahuri,  
Dist. Ahmednagar.
18. Baleshwar S/o. Balasaheb Bachkar,  
Age: 23 years, Occu.Nil,  
R/o. Nandur-Baragaon, Tq. Rahuri,  
Dist. Ahmednagar.

19. Ashok S/o. Punjaji Bachkar,  
Age: 36 years, Occu.Nil,  
R/o. Nandur-Baragaon, Tq. Rahuri,  
Dist. Ahmednagar.)
20. Sunil S/o. Sopan Vaditake,  
Age: 22 years, Occu. Nil,  
R/o.Karanjgaon (Tamtale),  
Tq. Newasa, Dist, Ahmednagar.
21. Dhondiram S/o. Baburao Bachkar,  
Age: 34 years, Occu. Nil,  
R/o. Manjari, Tq. Rahuri,  
Dist. Ahmednagar
22. Machindra S/o. Jabaji Bachkar,  
Age: 35 years, Occu. Nil,  
R/o.Karanjgaon (Tamtale),  
Tq Newasa, Dist. Ahmednagar.
23. Dnyandeo S/o. Tulshiram Bachkar.  
Age: 36 years, Occu.Nil,  
R/o Karanjgaon (Tamtale).  
Tq Newasa, Dist. Ahmednagar.
24. Navnath S/o. Raosaheb Rokde,  
Age: 33 years, Occu. Nil,  
R/o Rahuri, Tq Rahuri,  
Dist. Ahmednagar.
25. Sudhir S/o. Bhimraj Rokde,  
Age: 30 years, Occu. Nil,  
R/o.Rahuri, Tq.Rahuri.  
Dist. Ahmednagar.
26. Anil S/o. Shivram Doiphode,  
Age: 26 years, Occu. Nil,  
R/o. Newasa, Tq. Newasa,  
Dist. Ahmednagar.
27. Ramchandra S/o. Gujaba Lakade,  
Age: 30 years, Occu.Nil,  
R/o. Tamaswadi, Tq. Newasa,  
Dist. Ahmednagar.

28. Shivaji S/o. Gavaji Doiphode,  
Age: 28 years, Occu. Nil,  
R/o. Sajalpur, Tq. Newasa,  
Dist. Ahmednagar.
29. Limbaji S/o. Gangaram Hodgar,  
Age: 33 years, Occu. Nil,  
R/o. Watapur, Tq. Newasa,  
Dist. Ahmednagar.
30. Nana S/o. Bhikaji Hodgar,  
Age: 35 years, Occu. Nil,  
R/o. Watapur, Tq. Newasa,  
Dist. Ahmednagar.
31. Shivaji S/o. Savleram Shingade,  
Age: 36 years, Occu. Nil,  
R/o Warwandi, Tq. Rahuri,  
Dist. Ahmednagar.
32. Suryabhan S/o, Kashinath Deokar,  
Age: 30 years, Occu. Nil,  
R/o.Nandur-Baragaon, Tq. Rahuri,  
Dist. Ahmednagar.
33. Santosh S/o. Thakaji Bachkar,  
Age: 22 years, Occu. Nil,  
R/o.Kandal, Tq. Rahuri,  
Dist. Ahmednagar.
34. Ashok S/o. Thakaji Bachkar,  
Age: 20 years, Occu. Nil,  
R/o Kandal, Tq. Rahuri,  
Dist. Ahmednagar.
35. Bhanudas S/o.Rabhaji Bachkar,  
Age: 34 years, Occu.Nil  
R/o. Manjari, Tq. Rahuri,  
Dist. Ahmednagar.
36. Kanifnath S/o. Sampat Yenare,  
Age: 22 years, Occu.Nil,  
R/o. Digras, Tq. Rahuri,  
Dist. Ahmednagar.

37. Nilesh S/o. Namdeo Tarde,  
Age: 21 years, Occu. Nil,  
R/o. Digras, Tq. Rahuri,  
Dist. Ahmednagar
38. Sampat S/o. Bhausahab Deokar,  
Age: 30 years, Occu. Nil,  
R/o. Nandur Baragaon,  
Tq. Rahuri, Dist. Ahmednagar
39. Tulshiram S/o. Mhapaji Eainar,  
Age: 36 years, Occu. Nil,  
R/o. Karanjgaon-Tamtale,  
Tq. Newasa, Dist. Ahmednagar.
40. Bhaskar S/o. Bhausahab Galande,  
Age: 21 years, Occu. Nil,  
R/o. Dagadgaonthadi. Tq. Rahuri,  
Dist. Ahmednagar
41. Ashok S/o. Pandurang Kale,  
Age: 28 years, Occu. Nil,  
R/o Warwandi, Tq Rahuri,  
Dist. Ahmednagar
42. Sachin S/o Sopan Jadhav,  
Age: 22 years, Occu. Nil,  
R/o. Dagadgaonthadi,  
Tq. Rahuri, Dist. Ahmednagar
43. Nana S/o. Tukaram Donde,  
Age 36 years, Occu. Nil,  
R/o. Dagadgionthadi,  
Tq Rahuri, Dist. Ahmednagar
44. Annasaheb S/o. Dhondiba Mane,  
Age: 27 years, Occu. Nil,  
R/o Mhaisgaon, Tq. Rahuri,  
Dist. Ahmednagar
45. Uttam S/o Sakahari Agre,  
Age: 36 years, Occu. Nil,  
R/o. Mhaisgaon, Tq. Rahuri,  
Dist. Ahmednagar.

46. Sanjay S/o. Dagdu Agre,  
Age: 27 years, Occu. Nil,  
R/o Mhaingaon, Tq Rahuri,  
Dist. Ahmednagar
47. Subhash S/o. Kashinath Agre,  
Age: 33 years, Occu. Nil,  
R/o.Mhaisgaon, Tq Rahuri,  
Dist. Ahmednagar.
48. Navnath S/o. Gabaji Guldagad,  
Age: 22 years, Occu. Nil,  
R/o Mhaisgaon, Tq. Rahuri,  
Dist. Ahmednagar.
49. Rajendra S/o. Kashinath Pisal,  
Age: 30 years, Occu. Nil,  
R/o.Karanjgaon-Tamtale,  
Tq. Newasa, Dist. Ahmednagar.
50. Samaji S/o. Gobaji Bendre,  
Age: 35 years, Occu. Nil,  
R/o.Nandur-Baragaon,  
Tq. Rahuri, Dist. Ahmednagar.
51. Bhausahab S/o. Bhagwat Tamnar,  
Age: 28 years, Occu. Nil,  
R/o. Tamner Akhada,  
Tq. Rahuri. Dist. Ahmednagar,
52. Jalindar S/o. Maruti Bachkar.  
Age 22 years, Occu. Nil,  
R/o.Pimpalgaon-Pungi. Tq. Rahuri,  
Dist. Ahmednagar
53. Bharat S/o. Gorakhnath Mandlik,  
Age: 30 years, Occu, Nil,  
R/o. Nandur Baragaon, Tq. Rahuri,  
Dist. Ahmednagar.
54. Dipak S/o. Raosaheb Shendge,  
Age: 28 years, Occu.Nil,  
R/o Pimpalgaon-Pungi,  
Tq. Rahuri, Dist. Ahmednagar

55. Uttam S/o. Chimaji Guldagad,  
Age: 22 years, Occu. Nil,  
R/o Mhaisgaon, Tq. Rahuri,  
Dist. Ahmednagar.
56. Popat S/o. Ambadas Agre.  
Age: 27 years, Occu. Nil,  
R/o. Mhaisgaon, Tq. Rahuri,  
Dist. Ahmednagar.
57. Santosh S/o. Eknath Bachkar,  
Age 25 years, Occu. Nil,  
R/o.Pimpalgaon Pungi.  
Tq. Rahuri, Dist. Ahmednagar.
58. Dnyandeo S/o. Bhausahab Bachkar,  
Age: 23 years, Occu Nil, R/o.Manjari,  
Tq. Rahuri, Dist. Ahmednagar.
59. Arjun S/o. Dagadu Sodnar,  
Age: 25 years, Occu. Nil,  
R/o.Pimpri-Avghad,  
Tq. Rahuri, Dist. Ahmednagar.
60. Gujinath S/o. Punjahari Sodnar,  
Age: 27 years, Occu.Nil,  
R/o Pimpri-Avghad,  
Tq. Rahuri. Dist. Ahmednagar.
61. Chabu S/o. Sahebrao Bachkar,  
Age: 30 years, Occu.Nil,  
R/o Wavrath, Tq. Rahuri.  
Dist. Ahmednagar
62. Laxman S/o. Santaram Bachkar,  
Age: 30 years, Occu. Nil,  
R/o.Tamnar Akhada, T. Rahuri,  
Dist. Ahmednagar.
63. Sanjay S/o. Paraji Harde,  
Age: 32 years, Occu. Nil,  
R/o Daradgaonthadi, Tq. Rahuri,  
Dist. Ahmednagar.

64. Sudam S/o. Paraji Harde,  
Age: 34 years, Occu. Nil,  
R/o Daradgaonthadi, Tq. Rahuri.  
Dist. Ahmednagar.
65. Arjun S/o. Kondiba Jadhav,  
Age: 27 years, Occu. Nil,  
R/o. Daradgaonthadi,  
Tq. Rahuri, Dist. Ahmednagar,
66. Ravindra S/o. Kashinath Bachkar,  
Age: 23 years, Occu. Nil,  
R/o. Kadit, Tq. Shrirampur,  
Dist. Ahmednagar.
67. Viju S/o. Baburao Bachkar,  
Age: 24 years, Occu. Nil,  
R/o. Rahuri (Khurdi), Tq. Rahuri,  
Dist. Ahmednagar.
68. Santosh S/o. Tabaji Borude,  
Age: 28 years, Occu Nil,  
R/o. Baragaon-Nandur,  
Tq. Rahuri, Dist. Ahmednagar.
69. Prakash S/o. Karbhari Aghav,  
Age: 25 years, Occu. Nil,  
R/o Baragaon-Nandur,  
Tq. Rahuri. Dist. Ahmednagar. .. **APPLICANTS.**

**V E R S U S**

1. The State of Maharashtra,  
Irrigation Department,  
Mantralaya Mumbai,  
Through it's Secretary,
2. The Superintendent Engineer,  
Irrigation Department,  
Nashik Region, Nashik.
3. The Superintendent Engineer,  
Irrigation Development Authority.  
Ahmednagar. .. **RESPONDENTS.**



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APPEARANCE :- Shri M.C. Sayed, learned Advocate for the applicants.  
: Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent authorities.  
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**CORAM : Hon'ble Shri V.D. Dongre, Member (J) and Hon'ble Shri Bijay Kumar, Member (A)**  
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**RESERVED ON : 27.04.2023**

**PRONOUNCED ON : 20.06.2023**  
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## **ORDER**

***(Per :- Shri V.D. Dongre, Member (J))***

1. By invoking the jurisdiction of this Tribunal under Administrative Tribunals Act., 1985 the present Original Application is filed seeking following reliefs in terms of paragraph 5 (B) and (C) :-

*“(B) The respondents be directed to appoint applicants against Class-III, Class-IV posts in view of provisions of Section 6(c) of Rehabilitation Act, 1999 from the project affected persons category expeditiously, preferably within the period of 6 months.*

*“(C) The respondents be directed to consider the claim of applicant in respect of appointment in Mula Project against 50% quota as a project affected persons as a special drive reservation.”*

2. Facts in brief giving rise to this application can be summarized as under :-

(a) The applicants are Project Affected Persons (for short PAPs). The lands belonging to the respective forefathers of the applicants were acquired by the respondents for the purpose of construction of Mula Dam and such procedure was started in the year 1965.

(b) While acquiring the lands of the respective forefathers of applicants, the respondents assured them that the benefit shall be given to the Project Affected Persons' families like service in Class-III and Class-IV category. For that purpose Government has issued Government Resolution.

(c) Respondent no. 1 also passed the Act namely the Maharashtra Project Affected Persons Rehabilitation Act, 1999 for the purposes of rehabilitation of PAPs.

(d) The applicants made representations on 12.8.2011 to the respondents for the purpose to consider their names for the purpose of service in view of G.R., as well as, the Maharashtra Project Affected Persons Rehabilitation Act, 1999. However, Government did not

consider the said representation. Therefore, the applicants filed Writ Petition No. 1444/2012 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad. The said Writ Petition was disposed of by the Hon'ble High Court as per the order dated 7.8.2012 (part of Annex. A collectively) with directions to the applicants to draft and submit proper representation within 6 weeks from the date of order and the respondent no. 1 shall decide it within 3 months. The applicants have submitted on record the copy of the said W.P. no. 1444/2012 with annexures thereto such as certificate of PAPs and copy of order dated 7.8.2012 passed by the Hon'ble High Court disposing of the said writ petition. (pages 23 to 103 of paper book).

(e) Accordingly the applicants submitted representation on 30.8.2012 (pages 104 to 106 of paper book), however, the respondent no. 1 i.e. the State of Maharashtra did not decide the said representation within the period of 3 months as stipulated by the Hon'ble High Court. Therefore, the applicants filed Contempt Petition No. 87/2013 (page 108 to 122 of paper book) before the Hon'ble High Court of Judicature at Bombay, Bench at

Aurangabad. The respondent no. 2 therein i.e. the Superintending Engineer, Irrigation Department, Nashik filed affidavit in reply in the said matter (pages 123 to 130 of paper book) stating that they have decided the representation submitted by the applicants within the prescribed period of 3 months and the said decision is already communicated to the applicants vide communication dated 29.11.2012 (page 131 of paper book) thereby stating that the applicants are not entitled for 50% reservation and as per G.R. dated 27.8.2009 (pages 134 to 137 of paper book) the applicants have to compete in the competition, subject to advertisement. The said Contempt petition was decided on 18.7.2013 (page 138-139 of paper book).

(f) The applicants do not dispute about the advertisement, as well as, the competition in view of Full Bench judgment of the Hon'ble Bombay High Court in the case of **Rajendra Pandurang Pagare and Another Vs. State of Maharashtra and Others, 2009 (4) Mh L.J. 961** (pages 174-193 of paper book).

(g) It is contended that respondent no. 1 at the time of filling in the posts in Mahatma Phule Agricultural

University, Rahuri, Dist. Ahmednagar clarified that 50% reservation shall be given to the PAPs whose land/s were acquired for such establishment. Subsequently, the said Agricultural University filled in 50% posts amongst PAPs. In spite of the present applicants being PAPs of Mula Project, they were not considered while filling in the posts in Mahatma Phule Agricultural University, Rahuri because their lands were not acquired for the purpose of Agricultural University and due to view taken by the respondents.

(h) The respondents have rejected the claim of the applicants made in the representation dated 30.8.2012 observing that the applicants are not entitled for 50% quota, which is contrary to their earlier stand.

(i) Section 6(C), as well as, section 10(6)(C) the Maharashtra Project Affected Persons Rehabilitation Act, 1999 provides 50% reservation to the PAPs. Therefore, the stand of the respondents is contrary to the provisions of law.

(j) It is further submitted that even assuming that the applicants being PAPs are entitled for 5% reservation then

also the respondents ought to have appointed the applicants. However, on one hand the respondents have restrained the applicants, while filling in the posts in Mahatma Phule Agricultural University, Rahuri by stating that they are not entitled for the project of Agriculture University and only affected persons by this project are entitled for 50% reservation and on the other hands, the representation of the applicants is rejected on the ground that the applicants are entitled for 5% reservation. This is not permissible in the eyes of law.

(k) As per G.R. the benefit of certificate in respect of transfer is only one time and it would be already transferred by the forefather of the applicants to the 3<sup>rd</sup> generation i.e. applicants. Moreover, the age of applicants is also at the verge of outer age limit. In these circumstances, the respondents be directed to appoint the applicants as early as possible in such category.

(l) It is further submitted that respondent no. 3 published advertisement on 31.8.2023 (page 168 to 173 of paper book) in daily newspaper Lokmat in respect of the vacancies in the Irrigation Department of Ahmednagar District therein the category of PAPs are not considered as

per the provisions of law. Therefore, the applicants are likely to be restrained in service while filling in the said posts. Earlier also the respondents filled in the posts without following the specific provisions and without taking into consideration the representations filed by the applicants for that purpose.

(m) Due to adamant view of the respondents, the applicants are deprived of their right of getting the service. The applicants, therefore, filed Writ Petition No. 8645/2013 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad for seeking directions against the respondents to appoint the applicants against Class-III and Class-IV posts in PAPs category and to quash and set aside the advertisement dated 31.8.2013 published in daily Lokmat, as well as, letter dated 29.8.2012 issued by the respondents.

(n) The Hon'ble High Court by order dated 17.10.2013 (page 194 of paper book) disposed of the said writ petition as withdrawn with liberty to avail of alternate remedy. Hence, this Original Application.

3. The affidavit in reply is filed on behalf of respondent nos. 1 to 3 by one Shri Dilip Bapuji Navalakhe, Sub Divisional Engineer, Mula Irrigation Sub Division, Rahuri, Dist. Ahmednagar thereby it is contended that the Full Bench judgment of Hon'ble Bombay High Court in Writ Petition Nos. 5266/2008 and 7185/2008 decided by order dated 9.7.2009 is required to be implemented for filling in the posts of PAPs. The petitioners thereof are not entitled for direct recruitment, which is to be through competition pursuant to the advertisement. In terms of clause 10(6)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 the priority quota for employment of nominees of PAPs 5% in the establishment of Government institutions and Co-operative Societies specified under section 73-A of the Maharashtra Co-operative Societies Act, 1960. It is admitted that the applicants have made representation dated 30.8.2012 claiming thereby that out of sanctioned posts of Group-C and Group-D in the office of Executive Engineer, Mula Irrigation Project, 50% posts ought to have been filled in from PAPs category. However, the said claim is based on erroneous and contrary to the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Further, respondent no. 2 vide his letter dated 29.11.2012 has informed one of the applicants namely Popat s/o Karbhari



Bachkar that in view of G.R. dated 27.10.2009 (Annex. R-1 page 207 of paper book) and (also at page 134 to 137 of paper book), no posts in quota meant for PAPs shall have to be filled in without issuing an advertisement and by the candidates fulfilling the requisite criteria of the Recruitment Rules and merits etc. In view of the same, the respondents have justified the rejection letter dated 29.11.2012 (page 131 of paper book) issued by respondent no.2.

4. It is further submitted that the Government of Maharashtra has laid down a policy of PAPs by G.R. dated 27.10.2009. The said G.R. is issued in accordance with directions of the Hon'ble High Court in Writ Petition No. 5266/2008 and other connected matters.

5. It is further submitted that meeting was held with the Cabinet Minister of Water Resources Department on 7.11.2012. The representatives of the PAPs were also present in the said meeting. Copy of the minutes of the said meeting is at Annex. R-2, thereby observing that demand of PAPs for 50% reservation cannot be accepted. In view of the same, there is no merit in the Original Application and it is liable to be dismissed.

6. We have heard the oral arguments advanced by the learned counsel for the applicants, as well as, 2 written notes of arguments filed on behalf of the applicants on one hand and the learned Chief Presenting Officer on the other hand.

7. After having considered the rival pleadings, documents and submissions on record, the issue involved in the matter is as to whether the applicants as PAPs are entitled for the relief of appointment to Class-III or Class-IV posts in accordance with provisions of sec. 6(C) the Maharashtra Project Affected Persons Rehabilitation Act, 1999 as against 50% quota. At the time of filing of Original Application there was a decision of Full Bench of the Hon'ble High Court dealing with the subject of appointment to the PAPs in the case of **Rajendra Pandurang Pagare and Another Vs. State of Maharashtra and Others** (cited supra). The ratio of said citation is as laid down in paragraph nos. 39 to 43 wherein interpretation of section 10(6) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 is dealt with and interpreted in the said paragraphs. Paragraphs 39 to 43 of the said judgment read thus :-

*“39. We are, therefore, of the considered view that the directions given by the Division Bench in Sunil's Case, that the project affected persons should be appointed strictly according to the seniority list maintained by the Collector and that, they are not required to compete between*

*themselves and that they are entitled to be appointed without any competitive examinations, are inconsistent with the mandate of the Constitution of India under Articles 14 and 16. We find, that the same is also not permissible under the said Act and the relevant Government Resolutions. As we have already held, the quota of 5% fixed for project affected persons is nothing but a horizontal reservation provided for project affected persons and the candidates from that category will have to compete amongst themselves under the recruitment rules and the best amongst them would be entitled to be appointed.*

*40. Now, let us consider whether it is necessary for publishing an advertisement, calling applications from candidates belonging to project affected person, while filling up vacancies reserved for the said category. The Apex Court, in the case of Excise Superintendent, Malkapatnam, Krishna District, A.P., Vs. K.B.N. Visweshwara Rao and others (1996 AIR SCW 3979) has considered the requirement of calling applications by advertisement. It has been observed thus :*

*"Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair-play, justice and equal opportunity. It is common knowledge that many a candidate are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate are deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate Department or undertaking or establishment, should call for the names by publication in the newspapers having wider*

*circulation and also display on their office notice boards or announce on radio, television and employment news-bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates. "*

*41. No doubt, that under the Government Circulars, the Collectors are also required to sponsor the names of eligible candidates to the recruitment authority. However, since we have already held herein above, that the district-wise reservation is not permissible under the Constitution, the candidates from the other districts, who are project affected persons, would also be entitled to compete with the candidates who are sponsored by the Collector. In the absence of the advertisement, it will not be possible for them to get knowledge about recruitment process initiated in the areas beyond their district. We, therefore, find that in order to ensure the equality of opportunity which is guaranteed in the matter of employment under [Article 16](#) of the Constitution, it would be necessary that the posts reserved for project affected persons are advertised so that all the eligible candidates can submit their applications and get an opportunity to compete with others in their category.*

*42. We accordingly answer the issue referred to us, as under :*

*"That, the project affected persons cannot be appointed without advertising the posts ignoring their qualifications and merit. "*

*43. The Writ Petitions be placed before the Division Bench, for disposal, in accordance with the issue answered by us."*

8. During pendency of this litigation the Hon'ble Bombay High court, Bench at Aurangabad was pleased to deal with **Writ Petition No. 1330/2014 and Another, Ashok s/o Manikrao Shinde & Ors. Vs. The State of Maharashtra & Ors**, which writ

petition was decided as per the order and judgment dated 29.10.2015. The learned counsel has placed on record copy of the said decision along with additional notes of arguments filed by him. The facts of the said case are narrated in paras 3 & 4 thereof, which read as under :-

*“3. The petitioners in these writ petitions are Project Affected Persons. The lands of the petitioners are acquired for establishment of respondent/Vasantrao Naik Marathwada Agriculture University, Parbhani.*

*4. On 15.07.2009, the State Government issued directions to all the Agriculture Universities to fill in not less than 50% of the posts of Group - C and Group - D from the project affected persons, so that at least 50% of the project affected persons can be given employment. Thereafter, the advertisement was published on or about 28.08.2009 by the respondent university for filling up the posts of Class - III and Class - IV categories from project affected persons category giving 50% reservation for project affected persons of the said university. The selection process was undertaken, however, the recruitment process was not completed and abruptly issued subsequent advertisement to fill up only 5% posts from the project affected persons category. The same is pursuant to the communication issued by the respondent/State dated 21.08.2013 thereby conveying that, reservation to the project affected persons should not be more than 5%. The petitioners are seeking cancellation of advertisement dated 25.11.2014 and 04.12.2014 issued by the respondent university for fresh recruitment, wherein only 5% posts are meant for project affected persons category. So also assailing the letter dated 01.11.2013 i. e. the decision taken at the secretarial level cancelling the advertisement dated 15.07.2009.”*

and the observations are found in para 10 to 16 thereof as follows :-

“10. The Rehabilitation Act 1999 is a beneficial legislation meant for rehabilitation of the persons affected by certain projects for the State of Maharashtra. Sec. 6 (c) of the Rehabilitation Act of 1999 casts a duty on the project authority apart from other duties as laid down in clauses (a), (b), (d), (e) and (f) of Sec. 6 to give highest propriety in Class - III and Class- IV category of services on the project established to one member of the affected family nominated by the affected person if such member is eligible for such employment according to the recruitment rules for such posts and subject to any reservation validly made and subject to the availability of the posts. The proviso to Sec. 6(c) further mandates that while recruiting a member of affected family against such quota, the project authority shall as far as possible employ not less than 50% of such nominees who are affected by the project under execution. Reading Sec. 6(c) along with proviso to Sec. 6(c) it is manifest that, an obligation is cast on the project authority to employ not less than 50% of such nominees who are affected by the project. Of course, the same has to be in consonance with the recruitment rules and subject to the availability of posts and reservation validly made. It is for the project authority to perform its obligation as mandated by the statute to employ not less than 50% of the nominees who are affected by the project under execution. It is one of the ways of the rehabilitating the project affected persons.

11. The respondents have placed emphasis on Sec. 10(6)(a), which lays down that in all Class - III and Class - IV category of services under the establishment of the State Government, etc. there shall not be less than 5% priority quota for the employment of nominees of the affected persons. According to the respondents, this provisions restricts reservation of nominees of affected persons to 5% only and it is from these 5%, 50% are to be employed, i. e. 2.5% who are affected by the project under execution.

12. Sec. 6(c) and Sec. 10(6)(a) will have to be interpreted harmoniously. It is well settled that all provisions have to be read together and construed harmoniously and even when there are apparent inconsistencies between the sections of the Act and the Rules framed thereunder. There should be a harmonious construction so as to give effect to the intention of the legislation and to achieve the object of the Act.

13. The Rehabilitation Act of 1999 is a beneficial piece of legislation. In interpreting such a beneficial legislation the construction has to be liberal. The beneficial provision has to be liberally interpreted so as to give it a wider meaning rather than restrictive meaning which would negate the very object of the statute. It is also settled proposition that in construing the provisions of beneficent enactment the Court should adopt the construction which advances and fulfills the object of the Act, rather than the one which would defeat the same rendering the benefit illusory. The Rehabilitation Act of 1999 is enacted for the benefit of the persons affected by the certain projects. The provisions of Sec. 6(c) and 10(6)(a) will have to be read harmoniously in a manner they further the object of the statute. Head on collision between these provisions will have to be avoided. Sec. 10(6)(b) of the Rehabilitation Act of 1999 cannot be interpreted in a manner that would render Sec. 6(c) of the Rehabilitation Act of 1999 otiose or a dead letter. Sec. 10(6)(b) of the Rehabilitation Act lays down a general proposition that the State Government and the other persons, societies, etc shall provide employment to not less than 5% of the cadre strength of Class III and Class IV or equivalent of non technical employees to the nominees of the affected persons. The said provision does not at all restrict said reservation only for 5%. It on the other hand provides that it should not be less than 5%. Along with clause (b), clause (c) of sub Sec. 6 of Section 10 will also have to be considered, which requires that the Collector shall maintain a register showing the recruitment position in the District and ensure removal of backlog in recruitment of the nominees of the affected persons. However, at any recruitment percentage of the persons so recruited from amongst the nominees shall not exceed 50%, meaning thereby that for removal of backlog for recruitment of nominees of affected persons the percentage of persons so recruited from and amongst the nominees can be upto 50%. The whole object of the Act is to rehabilitate the affected persons or their nominees. Considering the provisions of Sec. 6(c) and its proviso, so also Sec. 10(6)(b) and (c), it is manifest that the reservation for nominees who are affected by the project under reservation can be upto 50% of the posts. If the reservation to such project affected persons is restricted to 2.5% i. e. 50% from 5% then, the object of the Act would never be achieved may be it would be frustrated. Interpreting both these provisions coherently, it is manifest

*that, special drive can be implemented for filling up the backlog of the nominees who are affected by the project under execution to the extent of 50% of the posts.*

*14. While doing so the social reservation cannot be lost sight of. The social reservation would be vertical reservation and reservation for P.A.P. category would be horizontal in nature. The balance can be struck by applying inter locking reservation i.e. from the horizontal reservation across the vertical reservation called as inter locking reservation. The persons from this P.A.P. category can be placed in the category of the social reservation which they belong to i. e. if a person from P.A.P. category belongs to S.C. category he be placed in that quota by necessary adjustment and so on. In this way the social reservation would not be affected.*

*15. Considering the above, it is clear that, the advertisement issued on 26.08.2009 was legal and valid and the subsequent letters issued by the respondents thereby cancelling earlier advertisement are illegal and same deserves to be quashed and set aside.*

*16. It is submitted that, recruitment process pursuant to advertisement dated 25.11.2014 and 05.12.2014 is not proceeded further, hence the same shall not be proceeded. The recruitment process undertaken pursuant to the advertisement of 2009 may be completed, if otherwise, there is no other legal impediment.*

*Rule made absolute in above terms. No costs.”*

9. Further , during hearing of this matter the learned counsel for the applicants has placed on record copy of the order dated 18.4.2023 passed by the Hon’ble Supreme Court in **Petition(s) for Special Leave to Appeal (C) No(s). 17597-17600/2017, State of Maharashtra State of Maharashtra & Ors. Vs. Ashok & Ors.,** thereby confirming the decision of Hon’ble Bombay High court, Bench at Aurangabad in **W.P No. 1330/2014 and Another, Ashok**



**s/o Manikrao Shinde & Ors. Vs. The State of Maharashtra & Ors,**  
(cited supra)). The Hon'ble Supreme Court has observed thus :-

*“Delay, if any, is condoned.*

*Having heard learned counsel appearing for the respective parties and taking into consideration Section 6(c) and Section 10(6)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, the impugned judgment and order(s) passed by the High Court is not required to be interfered with.*

*However, it is clarified that, even while keeping 50% reservation for the Project Affected Person, horizontal and vertical reservation applicable in the State shall have to be applied as even Section 6(c) specifically provides “subject to any reservations validly made.”*

*With this, the present Special Leave Petitions stand disposed of. Pending applications also stand disposed of.”*

10. The facts of the present case are most identical as that of facts involved in the **W.P. No. 1330/2014 and W.P. No. 9450/2014, Ashok s/o Manikrao Shinde & Ors. Vs. the State of Maharashtra & Ors.** (cited supra), which was decided by the Hon'ble Bombay High Court, Aurangabad Bench vide judgment delivered on 29.10.2015. Hence, the ratio laid down therein would be applicable in the present case. In view of that, we hold that the applicants shall be entitled for appointment being PAPs in terms of section 6(C) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 as against quota up to

50% as a special drive reservation. Hence, we proceed to pass the following order :-

**ORDER**

(i) Original Application No. 304/2014 stands allowed in terms of prayer clause para 5 (B) and (C), which read thus:-

*“(B) The respondents be directed to appoint applicants against Class-III, Class-IV posts in view of provisions of Section 6(c) of Rehabilitation Act, 1999 from the project affected persons category expeditiously, preferably within the period of 6 months.*

*(C) The respondents be directed to consider the claim of applicant in respect of appointment in Mula Project against 50% quota as a project affected persons as a special drive reservation.”*

(ii) No order as to costs.

**MEMBER (A)**

**MEMBER (J)**

**Place : Aurangabad**

**Date : 20.06.2023**