

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 158 OF 2015**

DISTRICT: - PARBHANI.

**Mr. Rajabhanu Dhudgiri Giri,**  
Age: - 27 years, Occu.: - Service,  
R/o. Pingali Bajar, Pingali,  
Tq. & Dist. Parbhani.

.. APPLICANT

**V E R S U S**

- 1] The State of Maharashtra,**  
Through the Secretary,  
Department of School Education  
and Sports, Mantralaya, Mumbai.
- 2] The Secretary,**  
Water Resources Department,  
Mantralaya, Mumbai.
- 3] The Director,**  
Directorate of Sports and Youth  
Services, State of Maharashtra,  
Pune 411 001.
- 4] The Superintending Engineer,**  
Minor Irrigation (water conservation),  
Aurangabad.
- 5] The Assistant Superintending Engineer,**  
Minor Irrigation (water conservation),  
Aurangabad
- 6] The Executive Engineer,**  
Minor Irrigation (water conservation),  
Jalna.
- 7] The Sub Divisional Officer,**  
Minor Irrigation (water conservation),  
Sub Division, Parbhani. .. RESPONDENTS

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**APPEARANCE** : Shri Manoj M. Kadtu, learned  
Advocate for the applicant.  
: Smt. Sanjivani Deshmukh - Ghate -  
learned Presenting Officer for the res.

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**CORAM** : **JUSTICE M.T. JOSHI, VICE CHAIRMAN  
AND  
ATUL RAJ CHADHA, MEMBER (A)**  
**DATE** : **12<sup>th</sup> July, 2018**  
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**ORAL - ORDER**

*(Per : Justice M.T. Joshi, Vice Chairman)*

1. By the present O.A. the applicant is seeking following reliefs :-

**A.** *The Hon'ble Tribunal may kindly be pleased to quash and set aside the Corrigendum dated **26.02.2014** issued by the Superintending Engineer, Minor Irrigation (water conservation) Aurangabad and issue necessary orders for the said purpose.*

**B.** *The Hon'ble Tribunal may kindly be pleased to quash and set aside the show cause notice dated **08.08.2014** issued by the Assistant Superintending Engineer Minor Irrigation (water conservation), Aurangabad and issue necessary orders for the said purpose.*

**C.** *The Hon'ble Tribunal may kindly be pleased to quash and set aside the Communications dated 22.12.2014 and 24.12.2014 and issue necessary orders for the said purpose."*

2. The case of the present applicant is that as per the advertisement dtd. 3.1.2012 (page 14) he applied to the post of Chowkidar. After due process he was appointed to the post after due verification of the documents furnished by him vide appointment order dtd. 16.8.2012 (Annex. A. 3 page 22). According to the applicant, he participated in the selection process on the basis of his caste. He, however, was selected in Open category on his own merit and appointment order was issued in Open (Sportsman) category. However, to his utter surprise, the res. no. 4 issued a corrigendum dtd. 26.2.2014 (Annex. A. 5 page 27) that in the original appointment order of the applicant dtd. 16.8.2012 following words should be added :-

*"that the appointment of all sportsmen category candidates shall be subject to declaration of validity of sports certificate by the Directorate of Sports and Youth."*

3. According to the applicant, this corrigendum was given retrospective effect. The action of the respondents is without jurisdiction. During the argument it is argued by the learned

Advocate that in the original appointment order dtd. 16.8.2012, vide clause no. 23 a warning was, in fact, issued by the appointing authority i.e. Superintending Engineer to the concerned Executive Engineers on whose establishment the candidates were going to be appointed that at the time of allowing the candidates to join the duty on the respective posts, he should get bond executed by them as well as he should verify various certificates as required. Despite this, according to applicant, the above corrigendum came to be issued later on. After issuing the corrigendum, the applicant was directed to comply with new stipulation vide letter dtd. 23.4.2014 (Annex. A. 6 page 28). The present applicant was directed to get his sport certificate verified. The res. no. 4 thereafter issued several communications to the applicant and directed to get the sport certificate verified. Ultimately, after finding that the sport certificate of the present applicant submitted to the competent authority has been invalidated vide letter dtd. 23.9.2014, the services of the present applicant came to be cancelled vide order dtd. 22.12.2014 (Annex. A. 17 page 52-1).

4. Learned Advocate has submitted that, in fact, the present applicant never applied from Sportsman category. Further, though the Executive Engineer was asked by the appointing

authority to verify all the documents before allowing the applicant to join the duty, the said Executive Engineer after verifying the documents of the applicant has allowed him to join the duty. In the original appointment order there is no whisper regarding any condition that certificate of sport is required to be verified from the competent authority and, therefore, he submits that the impugned order be quashed and set aside.

5. On the other hand, the learned P.O. submitted that in the advertisement (Annex. A. 1 page 14) at para 10 it was given an understanding that the candidature of the candidates of Sportsmen category would be subject to G.R. dtd. 30.4.2005 (Exh. R.1 page 59). It appears from Clauses 13 onwards of the said G.R. (page 63) that the appointment of the candidates of sportsmen category would be subject to validation of sports certificate. The learned P.O., therefore, submits that even if there is no mention about this condition in the appointment order, the applicant is bound by the clauses incorporated in the advertisement. Even otherwise also, vide corrigendum dtd. 26.2.2014 to the original appointment order of the candidates, the provisions of the above G.R. are included. Though the applicant has now claimed that he has not claimed appointment from sportsmen category, in fact, appointment order dtd.

16.8.2012 at page 22 would show that appointment of the present applicant is from sportsmen category. Not only this, but time and again the present applicant was reminded that his sport certificate is required for sending the same to the competent authority for validation and after taking much time it was submitted by the applicant. Thereafter the sports certificate of the applicant was forwarded for validation and lastly it was informed by the competent authority that the sports certificate of the applicant is not valid. Therefore, now the applicant cannot say against his own conduct as detailed supra.

6. In our view, vide the advertisement, the applicant was very well put to notice that selection from the category of sports persons would be subject to conditions incorporated in the G.R. dtd. 30.4.2005. The applicant was appointed from Sports persons category, he joined the said post and later on he has placed on record the sports certificate, which was ultimately found invalid by the competent authority. Merely because the Executive Engineer, who had allowed the present applicant to join the post on the basis of appointment order issued by the Superintending Engineer, ultimately did not get all the certificates examined, the entire process of selection cannot be faulted with.

7. In the circumstances, in our view, there is no merit in the present O.A. and hence the same is hereby dismissed without any order as to costs.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(M.T. JOSHI)**  
**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 12.7.2018**

ARJ-O.A. NO. 158-2015 D.B. (Termination)