

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**MISC APPLICATION NO. 37 OF 2024
IN
ORIGINAL APPLICATION NO 23 OF 2024
WITH
ORIGINAL APPLICATION NO 23 OF 2024**

Deore Sachin Babaji & Ors.) ...**APPLICANTS**

VERSUS

The State of Maharashtra & Ors.) ..**RESPONDENTS**

Shri A.S Gaikwad, learned advocate for the Applicant.
Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents No 1 to 4.
Smt Savita Yadav, learned counsel for Respondent no. 5.
Shri Anoop Patil, learned counsel for Respondent no. 6.
None present for Respondent No. 7.
Smt Payal Vardhan learned counsel for Respondent no. 8.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Shri Debashish Chakrabarty (Member) (A)

RESERVED ON : **19.01.2024**

PRONOUNCED ON : **14.02.2024**

ORDER

1. The Applicants who are highly qualified in Agriculture Engineering field, especially Soil & Water Conservation desire to apply for the posts of (i) Water Conservation Officer (Non-Gazetted) Class-II published by the State Selection Board/Commissioner for Soil & Water Conservation Department, Aurangabad pursuant to the Advertisement dated 19.12.2023 and (ii) Sub-Divisional Water Conservation Officer, Class-I and Water Conservation Officer,

Class-II issued by M.P.S.C, pursuant to Advertisement dated 29.12.2023. The last date of filling up of the Application Forms was 10.1.2024 and 25.1.2024 respectively.

2. The Applicants seek directions from the Tribunal that their representations dated 28.12.2023 and 30.12.2023 be decided by the Respondents No.1 & 2 and they are to be allowed to appear for both the examinations. The applicants further seek directions against the Respondents No 1 & 2 that they should make necessary 'Modification/Changes' in the Advertisements and allow the candidates to appear for the examination having qualification of 'B. Tech (Agriculture, Engineering and Technology)' for the said posts respectively.

3. In the first Advertisement dated 19.12.2023 the 'Educational Qualification' under Clauses 8 and 9' are as follows:-

८. शैक्षणिक अर्हता

अ. क्र.	पदाचे नाव	शैक्षणिक अर्हता
१	जलसंधारण अधिकारी गट ब (अराजपत्रीत)	उमेदवाराने शासनाने मान्यता दिलेली तीन वर्षे कालावधीची स्थापत्य अभियांत्रिकी मधील पदविका (Diploma in Civil Engineering) किंवा पदवी (Degree in Civil Engineering) किंवा शासनाने त्यास समकक्ष म्हणून घोषित केलेली अर्हता (शासन मृद व जलसंधारण विभाग राजपत्र जलसंधारण अधिकारी, (स्थापत्य) गट-ब, (राजपत्रीत) सेवाप्रवेश नियम दिनांक २१ सप्टेंबर, २०२१)

९. समकक्षता :

१. शासन निर्णय सामान्य प्रशासन विभाग क्रमांक आरजीडी-१५११/प्र.क्र.८९/२०११/१३ दिनांक २३/०८/२०११ मधील आदेशानुसार विद्यापीठ, अनुदान आयोग मान्यता प्राप्त विद्यापीठ, अभिमत विद्यापीठे, स्वायत्त संस्था इत्यादीच्या विविध पदविका, पदवी व पदव्युत्तर पदव्यांना केंद्र शासनाच्या मानव संसाधन विभाग, (शिक्षण विभाग) मंत्रालया कडून केंद्र शासनाच्या सेवेतील नियुक्तीसाठी वेळोवेळी प्रदान केलेली समकक्षता मृद व जलसंधारण विभागाच्या सेवेतील नियुक्तीसाठी ग्रहण धरण्यात येईल.

२. अभियांत्रिकी शाखाची समकक्षते बाबत उच्च व तंत्र शिक्षण विभागाकडील शासन निर्णय क्र. संकीर्ण-२०१३/(४५/१३)भाग-१/ता.शी-२ दिनांक १८/१०/२०१६ तसेच वेळोवेळी संबंधीत अर्हतेस समकक्ष घोषित करणे बाबत शासन निर्णय/ शासन घोरणांनुसार असणे आवश्यक आहे.

In respect of second Advertisement dated 29.12.2023, the 'Educational Qualification' under 'Clause 7.4.3' reads as under:-

७.४.३ स्थापत्य अभियंत्रिकी सेवा परीक्षा
(१) मान्यताप्राप्त विद्यापीठाची स्थापत्य अभियंत्रिकी मधील पदाची किंवा महाराष्ट्र शासनाने त्या पदवीशी समतुल्य असल्याचे घोषित केलेली तत्सम अर्हता.

(emphasis placed)

4. Learned Counsel for the Applicants submitted that the posts are very much related to Water & Soil Conservation which is integral part of the Agriculture and persons having B. Tech and M. Tech (Agricultural Engineering and Technology) are unfortunately not covered under both the Advertisements. Hence the 'Educational Qualifications' which is prescribed in these two Advertisements are not relevant and need to be modified as per the guidelines and directions of the Union of India.

5. By way of interim relief, it is prayed that the Tribunal be pleased to allow the Applicants to join the link given for the said Advertisements or the time be extended. The Respondents No.1 and 2 be directed to accept the applications on-line and also physically alternatively. Learned Counsel for the Applicants has submitted that the Respondents No. 5, 6, 7 & 8 are the Vice Chancellors of the Four Agricultural Universities and the Applicants are from these Agricultural Universities and they have the approval from the 'All India Council of Technical Education' (AICTE) and therefore, the inclusion of this degree in B. Tech, M. Tech, (Agricultural Engineering and Technology) as an appropriate eligibility for the posts advertised in the impugned Advertisements is necessary. Learned Counsel for the Applicants has submitted that the Applicants are the only suitable or more suitable candidates compared to the candidates holding B.E Civil Engineering, B. Tech, Civil Engineering. Their degrees of B. Tech Agriculture Engineering and Technology are to be considered as

equivalent to B.E, Civil Engineering and B. Tech, Civil Engineering. Learned Counsel for the Applicants has argued that the syllabus of B. Tech, (Agricultural Engineering and Technology) and functions assigned for the posts of Sub-Divisional Water Conservation Officer, Class-I and Water Conservation Officer, Class-II and Water Conservation Officer, Non Gazetted, Class-II, is apt and natural aligned with the requirement of these posts under the newly created Soil and Water Conservation Department. Learned Counsel for the Applicants has submitted representations dated 30.12.2023 to the Respondent-State Government that they should be considered. Learned Counsel for the Applicants has further submitted that there should be fair and equitable competition, however, the Advertisements restricting the eligibility only to B.E Civil Engineering ; B. Tech Civil Engineering is illegal erroneous, in view of the provisions of Article 14 and Article 16 of the 'Constitution of India'.

6. Learned Counsel for the Applicants has argued extensively as to how B. Tech and M. Tech (Agricultural Engineering) course were introduced after growth of Farm Mechanization and especially the importance of 'Soil and Water Conservation', which is at the heart of courses related to Agricultural Engineering. Learned Counsel referred to many letters and opinion of the experts in support of his arguments. Learned Counsel also discussed the Six Subjects of Maharashtra Agricultural University Act, 1990 and out of which one is 'Soil and Water Conservation', which is very important and stated that all these integrated subjects are taught by the reputed Four Agriculture Universities. Learned Counsel has further submitted that 'B. Tech and M. Tech (Agricultural Engineering) has accreditation of Maharashtra State Board of Technical Education (MSBTE) like B.E Civil Engineering and B. Tech Civil Engineering and so they are equally qualified candidates. Learned Counsel has quoted the Advertisements for

the same posts where recruitment was done by Other States like Rajasthan, Haryana, Punjab, Meghalaya, Uttar Pradesh, Nagaland, Arunachal Pradesh, Mizoram and West Bengal etc. which are unlike in Maharashtra. Thus, the Advertisements are discriminatory. Learned Counsel pointed out that even for Scientists of the Indian Institute of Soil and Water Conservation, Dehradun and all its eight Regional Stations working under it which comes under the Central Government 'B. Tech and M. Tech (Agricultural Engineering and Technology)' is one of the qualifying criteria for appointment of such Scientists.

Recruitment Rules

The Recruitment Rules dated 24.6.2021 for the post of Sub Divisional Water Conservation Officer (Civil), Group-A and other equivalent posts, Water Conservation Officer (Civil), Group-B (Gazetted) in the Maharashtra Engineering Services (Recruitment) Rules, 2021.....

(b) by promotion on the basis of seniority subject to fitness from amongst the persons holding the post of Water Conservation Officer (Civil), Group-B (Gazetted) under the Commissionerate and have completed not less than three years of regular service on that post.....

(ii) possess a Degree in Civil Engineering.

(emphasis placed)

The Recruitment Rules dated 21.9.2021, for the post of Water Conservation Officer, (Civil), Group-B, (Non-Gazetted), in the Maharashtra Service of Engineers under the Soil and Water Conservation Department (Recruitment) Rules, 2020....

“2(c) “Civil Engineering Degree” means a Degree in Civil Engineering of a Statutory University or any other qualification declared by Government to be equivalent thereto.....

3b)(ii) possess either Diploma or Degree in Civil Engineering.”

(emphasis placed)

7. Learned C.P.O relied on the additional Affidavit in Reply dated 18.1.2024 filed by Yuvraj Bayaji Ajetrao, Deputy Secretary, in the office of Secretary, Soil and Water Conservation Department, Mantralaya, Mumbai. She has submitted that Water Conservation Department was formed by Notification dated 5.6.1992 with subjects of (i) Minor Irrigation Works, (ii) Soil Conservation, (iii) Social Forestry (iv) Jawahar Rojgar Yojna (v) Drought Prone Area Programme. These five subjects were earlier connected with the other concerned Administrative Departments such as Irrigation Department, Forest Department and Agriculture Department. Another new Department namely Soil & Water Conservation Department was formed by G.R dated 31.05.2017 and six subjects assigned to it are (i) Minor Irrigation up to 600 hectares (ii) Lift Irrigation upto 600 hectares, (iii) Soil Conservation and Watershed Development (iv) Maharashtra Water Conservation Corporation, (v) Water and Land Management Institute & (vi) Jalyukt Shivar Abhiyan. The Soil and Water Conservation Department was created with amalgamation of posts which related to the Six Subjects are evident from G.R. dated 31.05.2017 which shows the total sanctioned strength of Soil & Water Conservation Department was of 16,479 posts. The breakup of these 16423 is as follows:-

Water Conservation Department	- 6115 posts
Water Resources Department	- 381 posts
Agriculture Department	- 9967 posts
New Posts	- 16 posts

The above posts were restructured and resized to 16,423 posts comprising 6,481 posts, as per G.R. dated 01.03.2019 of

Water Conservation Department and 9,942 posts of Agriculture Department.

8. Learned C.P.O further pointed out from the Affidavit in Reply that all the other posts except those of Agriculture Department were transferred to Soil and Water Conservation Department as per the G.R dated 31.5.2017 read with G.R. dated 01.03.2019 and all 9942 posts of Agricultural Department were supposed to be transferred to newly created Soil & Water Conservation Department. However, these 9942 posts are not yet transferred. The work which is especially related to Soil Conservation is still not done by Soil and Water Conservation Department. Actual execution of work related to Soil Conservation is substantially done through the Staff of Agriculture Department at field level and to monitor this function a post of Director, Soil Conservation is assigned in the office of the Commissioner, Agriculture. It is pointed out that the Technical Posts which were transferred from earlier Water Conservation Department and Water Resources Department are also redesignated and nomenclature of their designation is also changed like Sectional Engineer, i.e., A.E-II, Junior Engineer is now called 'Water Conservation Officer' and Deputy Engineer is now called 'Sub Divisional Water Conservation Officer'. It is explained and clarified that various Technical Posts of Water Conservation Department and Water Resources Department were of same cadre with the duties are in similar nature and all the personnel to those posts were recruited from the candidates having 'Educational Qualification' of B.E, Civil Engineering, Diploma Civil Engineering and equivalent thereof as declared by State Government. After transfer of these posts to Soil & Water Conservation Department, the officers working in various cadres were given opportunity of absorption in the said or equivalent posts and accordingly many such officers opted to join the newly formed Soil and Water Conservation Department. The

functions performed by the Water Conservation Department were similar to activities of the Water Resources Department with some minor difference of scale. Learned C.P.O. has further submitted that the Educational Qualifications mentioned for the post advertised is the Policy Decision of the Respondent-State Government wherein it is not open to 'Judicial Review' by the Tribunal.

9. The degree of B.E. Civil Engineering and B. Tech Civil Engineering is not equivalent to the degree of B. Tech and M. Tech (Agricultural Engineering and Technology). We indeed are empathetic towards the applicants who are highly qualified with degrees like B. Tech and M. Tech (Agricultural Engineering and Technology) have taken education in the reputed, 4 Agriculture Universities who have imparted education in Soil and Water Conservation field related to Agriculture. The Applicants aspire to join the Government Service and make use of their education and knowledge in respect of Agriculture. It is a fact that Soil & Water Conservation is integral part of Agriculture. Learned Counsel for the Applicants with all passion argued how these candidates are deserving to get appointed to the posts advertised of (i) Water Conservation Officer (Non-Gazetted) Class-II (ii) Sub-Divisional Water Conservation Officer, Class-I and Water Conservation Officer, Class-II. Though his argument is based on the earlier experience of the appointments with the same or equivalent 'Educational Qualifications' at this stage the Applicants cannot apply on account of the conscious Policy Decision of the Respondent-State Government to restrict the 'Educational Qualification' only to B.E. Civil Engineering and B. Tech Civil Engineering and not to consider the candidates from B. Tech and M. Tech (Agricultural Engineering and Technology). We further make it clear that B. Tech (Agriculture, Engineering and Technology) and B.E. Civil Engineering and B. Tech Civil

Engineering are two different streams of education in Engineering Branches and they cannot be treated equivalent by order passed by Judicial Authority unless it is so considered to be of equivalence by the Respondent-State Government as has been cited with reference to recruitment done by other State Governments and Central Government. We really fail to understand against these backdrop why the Agriculture Department is sitting tight on the 9942 posts which are vacant and were required to be transferred to the Soil and Water Conservation Department when the Respondent-State Government had directed that action be taken accordingly much earlier as per G.R. dated 1.3.2019. This inaction of the Agriculture Department is the real cause of the grievance of these Applicants. The cause of the Applicant is not that Respondent-State Government is restricting the eligibility criterion for the posts advertised of (i) Water Conservation Officer (Non-Gazetted) Class-II (ii) Sub-Divisional Water Conservation Officer, Class-I and Water Conservation Officer, Class-II, but also why the 9942 posts of Agriculture Department are not being transferred to Soil and Water Conservation Department and forthwith filled up as to provide employment opportunities to candidates like Applicants who are equally qualified having opted to acquire degrees of B. Tech and M. Tech (Agricultural Engineering and Technology). The Respondent-State Government has taken Policy Decision to appoint persons having 'Educational Qualification' of only B.E. Civil Engineering and B. Tech Civil Engineering as found appropriate and suitable for the posts of (i) Water Conservation Officer (Non-Gazetted) Class-II (ii) Sub-Divisional Water Conservation Officer, Class-I and Water Conservation Officer, Class-II and thus it cannot be subject of 'Judicial Review'.

10. Hence, prima facie, no case is made out to grant interim relief. M.A. stands dismissed. O.A. Adjourned to 13.03.2024. Respondents to file Affidavit-in-Reply.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 14.02.2024
Dictation taken by : A.K. Nair.