

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 247 OF 2019**

**DISTRICT : SATARA**

Miss Komal Prakash Jadhav, )  
Occ : Nil, R/o: Vijayshri Bunglow, )  
Plot no. 77, C-Society, Ramrav Pawar Nagar, )  
Godoli, Satara 415 004. )...**Applicant**

**Versus**

1. The Secretary, )  
Maharashtra Public Service Commission )  
5<sup>th</sup>, 7<sup>th</sup> & 7<sup>th</sup> floor, Cooperage Telephone )  
Exchange Bldg, M.K Marg, Cooperage, )  
Mumbai 400 021. )
2. The Directorate of Sports and Youth )  
Service, Central Bldg, Somwar Peth, )  
Pune 411 001. )
3. The State of Maharashtra, )  
Through the Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )...**Respondents**

Shri S.S Dere, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM** : **Shri P.N Dixit (Vice-Chairman) (A)**  
**Shri A.P Kurhekar (Member)(J)**

**DATE** : **18.07.2019**

**PER : Shri P.N Dixit (Vice-Chairman) (A)**

**ORDER**

1. Heard Shri S.S Dere, learned advocate for the Applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

2. Learned advocate for the applicant submits that this Tribunal had given directions to Respondent no. 1 in a similar case, i.e. O.A 933/2018 dated 13.2.2019, which reads as under:-

“6. Original Application is accordingly allowed with following directions:-

Respondent no. 1 is directed to allow the applicant to participate in the selection process by ignoring the proclamation (copy whereof is at Exh-D, page 27 of the Paper Book of O.A) subject to applicant following all other conditions as to eligibility.”

(Quoted from page 48 of the O.A)

3. Learned advocate for the applicant submits that the facts in the present Original Application as well as facts in O.A 933/2018 are similar. In support of the same, he has submitted a chart, which is as under:-

O.A No.	First Advertise ment (Pre)	Date of application to the Sports Certificate	Report of Director Sports	Second Advertise ment (Main)	Last date of submission of on-line application form	Proclamation dated 2.8.2018 issued by MPSC, cut-off date	Second Proclamation dated 21.9.2018	Date of interview
933/2018	26.4.2017	27.7.2017	11.9.2017	3.10.2017	17.10.2017	17.10.2017	16.5.2017	
247/2019	26.4.2017	24.7.2017	20.9.2017	3.10.2017	17.10.2017	17.10.2017	16.5.2017	9.10.2018

4. Learned advocate also submits that this case is covered by the judgment delivered by the Nagpur Bench of this Tribunal in O.A 780/2018 dated 1.2.2019. Relevant portion of the same is as under:-

“11. Finding on Questions:-  
Question No. (1). Whether conditions contained in clause 4(v) of Government decision dated

1.7.2016 and requiring that candidate must obtain the Validation Certificate of participating in Sports before the last date fixed for nomination, results in denial of opportunity of being a candidate for public employment?

- Findings:
- (a) In so far as first question is concerned, this Tribunal has decided O.A 610/2017 and held that imposition of a condition, compliance whereof is exclusively within the domain of the executive and is beyond the control of candidate cannot be made a hurdle in the way of a individual of becoming a candidate for public employment.
  - (b) Denial of candidature to a citizen in the matter of public employment on account of failure to comply with a condition which is beyond his physical control, human limits and is a matter of authority and domain of public authorities, can never be imposed. Imposition of such condition result in violation of fundamental Rights of equal opportunity of consideration in the matter of public employment, is utter violation of Articles 14 & 16 of the Constitution of India.
  - (c) This Tribunal holds for the reasons recorded in O.A 610/2017 and O. A. 204 of 2018 decided today, that the imposition of condition of possession of certificate by a candidate before the last date fixed for making application cannot apply to the candidates whose claim for verification or vetting of the Sports Certificate is pending before the authorities and the candidate is not responsible for the delay and the blame is not attributable to the candidate.
  - (d) In view of the said discussion and findings, Question No. 1 is answered against the authorities and in favour of the Government.
  - (e) Therefore, applicant is held entitled for consideration of his claim on his own merit and in accordance with the recruitment rules.

Question No. (2) On facts, has the applicant made out a case of his eligibility on account of failure to possess validation, delay in grant whereof is not attributable to him.

Findings : The details as to how the applicant had participated, his Certificate had been validated and Respondent no. 2 took more than two months' time are admitted facts.

12. In the result, O.A is allowed in following terms:-

- (a) Clause 4(v) of Government decision dated 1.7.2016 shall not apply to applicant's candidature for his claim being considered.
- (b) Applicant's candidature be considered on the basis of validity certificate received by him on 5.7.2017, which is on record of O.A, at Exh. G, page 49.
- (c) Applicant's candidature be considered on its own merit and Respondent shall grant to him due placement in the provisional and final merit list in accordance with the Recruitment Rules and all consequential benefits according to his entitlement as regards his eligibility as to appointment according to his merit and as per the rules and procedure of recruitment, except impugned para/ Rule 4(v) contained in Govt. Decision dated 1.7.2016.

10. In view of discussion in foregoing paras, following order is passed:-

**ORDER**

"The MPSC, i.e. Respondent no. 3 is directed to open the result kept in sealed cover as per para no. 2 of interim order dated 4<sup>th</sup> October, 2018 and process it as per their rules and regulations. With this, the O.A is disposed of with no order as to costs."

(Quoted from pages 43 to 46 of O.A)

5. In view of the foregoing, we find that there is no difference between the cases referred above and decided and the present case. The only difference is that the other candidates had approached this Tribunal and obtained necessary orders, whereby they were called for interview and disqualified.

6. In the present case, the applicant was called for interview. She participated in the interview, but rejected on the ground that she submitted the validity Sports Certificate subsequently. Hence, the ratio as laid down in the earlier judgment would also apply to the present case.

7. Therefore, M.P.S.C is directed to consider the case of the applicant, after fulfilling all other conditions such as eligibility, except the ground of non-selection because of the proclamation under question.

8. M.P.S.C is directed to recommend the name of the applicant if found eligible after fulfilling other conditions. The said process be completed within a period of two months.

9. Original Application stands disposed off with above direction. No order as to costs.

**Sd/-**  
**(A.P Kurhekar)**  
**Member (J)**

**Sd/-**  
**(P.N Dixit)**  
**Vice-Chairman (A)**

**Place : Mumbai**  
**Date : 24.07.2019**  
**Dictation taken by : A.K. Nair.**