

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NOS 380 OF 2020 WITH ORIGINAL
APPLICATION NOS 2 & 3 OF 2022**

DISTRICT : PUNE

1) ORIGINAL APPLICATION NO. 380 OF 2020

1. Amruta Karvande,)
R/at Flat No. 601, Bldg No. T,)
Sheetal Baug, Bhosari,)
Pune 411 039.)
2. Abhay Ashok Teli,)
R/at 1058, Mitkyachi Wadi,)
Pawashi, Kudal, Sindhudurg,)
Maharashtra 416 520.)...**Applicant**

Versus

1. The State of Maharashtra)
Through its Secretary,)
Women & Child Development Dept,)
Mantralaya, Mumbai -32.)
2. Maharashtra Public Service)
Commission,)
Through its Secretary,)
3rd floor, Bank of India Building,)
M.G Road, Fort, Mumbai 400 001.)
3. Shri Abhijeet Laxman Jagtap,)
Narsingh Girji Chawl, Murarji,)
Peth, Solapur [North], Solapur.)
4. Shri Abhilash M. Jagtap,)
Occ:Nil, R/oShirur, Anant Pal,)
Latur.)...**Respondents**

2) ORIGINAL APPLICATION NO. 2 OF 2022

Amol Mahadeo Narute,)
 Occ : Student, R/at Post, Pimpri Khurd,)
 Tal-Indapur, Dist-Pune 413 106.)...Applicant

Vs.

1. The State of Maharashtra)
 Through the Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400 032.)
2. The State of Maharashtra,)
 Through Secretary,)
 Women and Child Development)
 Department, Mantralaya,)
 Mumbai 400 032.)
3. The Secretary,)
 Maharashtra Public Service)
 Commission, 5th, 7th and 8th floor,)
 Cooperage Telephone Exchange Bldg)
 M.K Marg, Cooperage,)
 Mumbai 400 021.)
4. Mayur Tulsiram Bansode.)
5. Pritam Ashok Thombare)
6. Akshay Gangadhar Nage.)
 Respondents No 4 to 6 through)
 Respondent no. 1.)...**Respondents**

3) ORIGINAL APPLICATION NO. 3 OF 2022

Akash Rajaram Dahadade,)
 Occ : Service, R/at 3225, 'Gokul',)

Shivaji Nagar, Ozar (Mig),)
Tal-Niphad, Dist-Nasik 422 206.)...Applicant

Vs.

1. The State of Maharashtra)
Through the Secretary,)
General Administration Department,))
Mantralaya, Mumbai 400 032.)
2. The State of Maharashtra,)
Through Secretary,)
Women and Child Development)
Department, Mantralaya,)
Mumbai 400 032.)
3. The Secretary,)
Maharashtra Public Service)
Commission, 5th, 7th and 8th floor,)
Cooperage Telephone Exchange Bldg))
M.K Marg, Cooperage,)
Mumbai 400 021.)
4. Bushan Kailas Patil,)
R/at Gotane, Post-Chaugاون,)
Dist-Pune.)...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicant in O.A 380/2020.

Shri B.A Bandiwadekar, learned counsel for Respondents No 3 & 4 in O.A 380/2020.

Shri S.S Dere, learned counsel for the applicants in O.A 2 & 3/2022.

Ms Swati Manchekar, learned Special Counsel for Respondent No. 2, MPSC in O.A 380/2020 and learned C.P.O for the Respondents in O.A 2 & 3/2022.

CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)

DATE : 13.01.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. All these matters are heard together for the purpose of interim relief initially, as the order dated 15.9.2020 was passed at ad-interim stage.

2. The arguments of the learned counsel for the applicant Mr Lonkar in O.A 380/2020 was heard on the point of vacation of the interim relief granted by this Tribunal on 15.9.2020.

3. Learned counsel for the applicants Mr Dere, prays that the names of the applicant in O.A 2/2022 be included in the order dated 24.12.2021 at Serial No. 27 for the post of Naib Tahsildar and applicant in O.A 3/2022 at Serial No. 26 in the order dated 24.12.2021 for the post of Tahsildar.

4. By order dated 15.9.2020, the interim order dated 27.8.2020 was modified as follows:-

- “a) M.P.S.C is directed that the two posts which are reserved for Orphan are to be kept on hold if at all the recommendation are sent to G.A.D.
- b) M.P.S.C is directed to communicate this order forthwith to G.A.D so that no further steps will be taken by the concerned department for the two posts which are reserved for Orphan.”

5. Thus, M.P.S.C was directed to keep two posts vacant which was reserved for Orphans and G.A.D was directed not to give orders of appointment for two posts.

6. The applicant in O.A 2/2022 claims that he applied for State Services Preliminary Examination 2019, for the post of Naib Tahsildar in NT(C) category and applicant in O.A 3/2022 claims that he applied for the said Examination for the post of Tahsildar in NT (C) category.

7. The applicants in O.A 380/2020 have also applied for the State Services Examination in the reserved category for Orphans. The Preliminary Examination was conducted on 17.2.2019. Both the applicants were allowed to appear for the Main Examination which was conducted from 13th to 15th July, 2019. The result of the Main Examination was declared on 29.7.2020 and the names of the applicants were not included in the merit list. Hence, they have filed the present Original Application.

8. Learned counsel for the applicants Mr Lonkar had submitted that the M.P.S.C did not specify the cut-off marks or percentile specifically for the Orphans category. Learned counsel for the applicants pointed out that for Backward Class category 30 percentile marks and for Sports category 20 percentile marks was fixed, but for Orphans M.P.S.C did not fix any percentile. Learned counsel for the applicants submitted that by not following the specific procedure the M.P.S.C has frustrated the purpose of keeping the reservation for Orphans. Learned counsel further submitted that 24 candidates appeared from the Orphan category, out of them 6 were called for interview as they have secured 30% of the percentile. As none of them was holding valid Orphan Certificate, they were disqualified. Therefore, post of reservation for Orphan could not be filled in from that category and these two posts were made available in the open category.

9. Learned counsel for the applicants Mr Lonkar submitted that the main grievance of the applicants is against the M.P.S.C, who should have made a declaration about specific cut-off marks for the Orphan category. He, therefore, opposed that the interim relief granted by this Tribunal should not be vacated.

10. Learned counsel for the applicants Mr Dere in O.A 2/2022 & 3/2022, submitted that both the applicants have secured more than the cut-off marks for NT(C) category. However, the applicants were recommended against the de-reserved Orphans category on the basis of merit. Learned counsel for the applicants pointed out that applicant in O.A 2/2022 has secured 522 marks against the cut-off marks of 516 in NT(C) category for the post of Naib Tahsildar and applicant in O.A 3/2022 has secured 537 marks against the cut off marks of 535 in NT(C) category for the post of Tahsildar.

11. Learned C.P.O for the Respondents relied on the affidavit in reply dated 10.9.2020, filed by Deputy Secretary, in the office of M.P.S.C, Mumbai and so also the affidavit in reply dated 19.1.2021 of Prema G. Ghate, District Women and Child Development Officer, Mumbai City. Learned C.P.O has submitted that the M.P.S.C has made it clear that it was necessary for the applicants to secure 30 percentile marks which was cut off marks for backward class category and they should have obtained minimum 159 marks out of 800 marks in the Main Examination. Learned C.P.O submitted that applicant No. 1 secured 92 marks and applicant no. 2 secured 111 marks in the Main Examination and they were otherwise not eligible for recommendation and therefore, they were not called for interview. She further submitted that the Rules were framed in the year 2014 and at that time category of Orphan was not created by the State. However, it was entered in the year 2018. M.P.S.C,

therefore, for this examination which was conducted on 17.2.2019 has adopted the criteria of percentile of 30% for the Orphans which was equal to backward class reservation. She submitted that under such circumstances, the two posts should not kept vacant and the interim order dated 15.9.2020 should be vacated.

12. We have considered the submission of learned counsel for the applicants and the learned C.P.O. Though it is true that M.P.S.C has not fixed the criterion of cut-off marks for category of reservation, however, percentile of 30 marks applied even for Orphan category, equal to the backward class category, appears to be reasonable. Therefore, the procedure followed by M.P.S.C cannot be faulted. The applicants could not reach to that percentile as they have secured 17.29% and 20.86%

13. We do not find any merit in the case of the applicants in O.A 380/2020 and we hereby vacate the order dated 15.9.2020 granting interim relief by way of keeping two posts vacant which are reserved for Orphans, if at all recommendations are sent to G.A.D. In view of the above, nothing remains in the Original Application No. 380/2020 and the same is hereby dismissed.

14. As the order dated 15.9.2020, granting interim relief by this Tribunal is vacated, the Respondent-State will consider the candidature of the applicants in O.A 2/2022 and O.A 3/2022. The Respondent-State is hereby directed to take corrective measures of giving posting to the applicants in O.A 2/2022 as Naib Tahsildar and in O.A 3/2022 as Tahsildar.

15. We are informed that appointment orders are issued in some cases and the training will commence from 17.1.2020. In view of this urgency, the Respondent-State is directed to take decision on

or before 19.1.2022 and issue necessary orders in respect of the applicants in O.A 2/2022 and O.A 3/2022.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 13.01.2022

Dictation taken by : A.K. Nair.

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