

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO 507 OF 2018**

**DISTRICT : SATARA**

Shri Ajay Sambhajirao Patil, )  
Occ : Education, )  
R/o: Vihe, Tal-Patan, )  
District -Satara 415 117 )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Principal Secretary, )  
[Transport], Home Department )  
[Parimandal-3], )  
Hutatma Rajguru Chowk, )  
Madam Cama Marg, )  
Mantralaya, Mumbai 400 032. )
2. The Secretary, )  
Maharashtra Public Service )  
Commission, having office at )  
5 ½, 7 and 8<sup>th</sup> floor, )  
Cooperage Telephone Nigam Bldg )  
M.K Marg, Cooperage, )  
Mumbai 400 021. )...**Respondents**

Shri S.T Bhosale, learned advocate for the Applicant.

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

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

**DATE** : **13.06.2022**

**PER** : **Justice Mridula Bhatkar (Chairperson)**

## **J U D G M E N T**

1. The applicant has appeared for the examination for the post of Assistant Motor Vehicle Inspector, (Transport), Group-C. The Respondent no. 2, M.P.S.C has issued the advertisement dated 30.1.2017 for filling up 832 posts of Assistant Motor Vehicle Inspector (Transport). The Preliminary Examination was conducted on 30.4.2017 and thereafter Main Examination was held on 6.8.2017. The result of the said Examination was declared on 31.3.2018. The name of the applicant did not appear in the final result. Therefore, the applicant has filed the present Original Application seeking directions that the final result dated 31.3.2018 be quashed and set aside. It is also prayed that M.P.S.C be directed to issue fresh advertisement to fill up 832 posts of Assistant Motor Vehicle Inspector (Transport) Group-C by providing 5% special horizontal reservation to the Project & Earthquake Affected Person as it is provided by G.R dated 16.3.1999 and subsequently by G.R dated 13.8.2014.

2. The Respondent no. 1 has filed affidavit in reply dated 6.8.2021 through Shri Jitendra Baburao Patil, Deputy Transport Commissioner (Admn) in the office of Transport Commissioner, Mumbai, wherein all the contentions raised by the applicant in the application are denied.

3. Learned counsel for the applicant submits that the applicant is a Project Affected Person as his land was acquired for the purpose of Irrigation Project. Learned counsel submits that the applicant has secured 106 marks. However, while issuing the advertisement for the post of Assistant Motor Vehicle Inspector (Transport), the Respondents did not keep 5% of the posts reserved for special horizontal reservation to the Project Affected Persons.

Learned counsel further submits that it was in view of the G.Rs dated 16.3.1999 and 13.8.2014, the Government was bound by its own policy decision of providing 5% reservation for special horizontal reservation to the Project Affected Persons. Learned counsel for the applicant pointed out that the applicant after the examination, i.e. on 30.4.2017 and much before the declaration of the final result, i.e. on 13.3.2018 placed his grievance on 14.8.2017 in writing to the Respondent-State. Learned counsel submitted that in the said representation the applicant has claimed that the said 5% reservation for the Project Affected Persons ought to have been given and accordingly the post should have been reserved. However, as it is not provided, the Government has violated the G.Rs dated 16.3.1999 and 13.8.2014. Therefore, the applicant is entitled to the relief he has sought.

4. Learned C.P.O, while opposing this Original Application, relied on the affidavit in reply dated 6.8.2021 filed by the Respondent no. 1. She relied on the G.R dated 21.1.1980, wherein the 5% reservation for special horizontal reservation to the Project Affected Persons is made applicable for Class-III & Class-IV posts which are outside the purview of M.P.S.C. Learned C.P.O further submitted that the G.Rs dated 16.3.1999 and 13.8.2014 are not applicable in the present case as the procedure is explained in these two G.Rs about the implementation of quota for 5% special horizontal reservation for Project Affected Persons and also about the implementation of migration in respect of women on the basis of the judgment in the case of Ms. Archana Khambe, which was decided by the Hon'ble Bombay High Court.

5. We have perused the G.R dated 16.3.1999 which states about providing 5% special horizontal reservation to the Project Affected Persons. In the said G.R the earlier Government

Resolution of 21.1.1980 is also referred. However, the earlier G.R of 21.1.1980 clearly carves out the exception of the posts filled up through M.P.S.C for providing reservation for Project Affected Persons. Thus Project Affected Persons reservation is a special horizontal reservation which is made available to Class-III & Class IV employees in the Government service. However, it is made clear in the said G.R that such reservation is made applicable for the selection and appointment of the posts which are not filled up by M.P.S.C. Thus, the selection and appointment made through M.P.S.C of Class-III & Class-IV posts, 5% special horizontal reservation for Project Affected Persons is not to be provided. The G.R dated 16.3.1999 is regarding filling up the posts in Government service wherein the allocation of the percentage under each category is given. Therefore for the Project Affected Persons 5% posts are to be reserved for Group-C & Group-D posts. In the G.R dated 16.3.1999, though the G.R of 21.1.1980 is referred at Sr. No. 2, the G.R dated 16.3.1999 does not override this exception which is carved for the appointments through M.P.S.C. The G.R dated 13.8.2014 is mainly for the channelizing the implementation of the special horizontal reservation while recruiting the candidates mainly on the point of migration from reserved category to open is made clear.

6. Thus, as on today G.R dated 21.1.1980 stands. Moreover, the applicant has not challenged the provisions in the G.R dated 21.1.1980 and therefore, the said G.R is in force. We are of the view that the provisions of providing 5% special horizontal reservation for the Project Affected Persons when the appointments are made through M.P.S.C for Group-C & Group-D posts is not applicable.

7. Learned counsel for the applicant during the course of hearing prayed that he be allowed to amend the Original Application and he be allowed to add the prayer challenging the G.R dated 21.1.1980.

8. We cannot allow the said prayer for amendment at this stage as it is a very substantial amendment. Further the affidavit in reply was filed on 6.8.2021, wherein, in para 12 of the reply the Respondent-State has taken the same stand and has relied on the G.R dated 21.1.1980. Thus, the applicant had knowledge of the policy adopted by the Respondent-State. Hence, it was necessary for the applicant to take timely steps making the prayer for amendment well within time. Moreover, this Original Application is pending since 2018.

9. Further, on perusal of the record, we find from the photo copy of the application made by the applicant that he has applied from open category and he has secured 106 marks. However, the cut-off marks for candidates from open category is 188 marks. Thus, the applicant could not stand in merit in the open category.

10. Under such circumstances, we do not find any merit in the Original Application. The same stands dismissed.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 13.06.2022**  
**Dictation taken by : A.K. Nair.**