

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 1123 OF 2015

DISTRICT :Mumbai

- 1) Shri Kapil Kondaji Bidgar)
Assistant Engineer Grade II,)
Water Resource Department,)
Govt. of Maharashtra and Residing)
at Flt No. D-101, Greenland Country,)
Managi Nagar, Pune 41.)

- 2) Nandkumar Nivrutti Kardile)
Assistant Engineer Grade I, Water)
Resource Department, Government)
of Maharashtra and Residing at Flat)
No.M-203, Greenland Country,)
Managi Nagar, Pune 41.)

- 3) Rahul Ram Bobe)
Aged about 28 years, residing at)
Flat No. E-302, Roze Rytham,)
Pimpale Soudagar, Pune 411 027.)

- 4) Vithal Haribhau Gavande)
Assistant Engineer Grade II, Water)
Resource Department, Government of)
Maharashtra and Residing at Flat No.)
3, B-5, Kasaliwad Classic, Phaze II)
Tapadia Nagar, Darga Road,)
Aurangabad.)

- 5) Priyanka Jitendra Janephalkar)
Assistant Engineer, Grade-II,)
Maharashtra Jeevan Pradhikaran,)
Govt. of Maharashtra and residing at)



Sambhajinagar Colony, Depo Road,)
 Vaijapur, Dist. Aurangabad.)
 Pin 423701.)

6) Sanjay Narayan Patil)
 Assistant Engg. Grade-I,)
 Water Resources Department,)
 Kanher Canal Division No.2,)
 Karawadi, Ujjani Canal)
 Sub-Division No.24,)
 Nagthane, Dist. Satara.)...**Applicants**

VERSUS

1. Maharashtra Public Service)
 Commission, through its Chairman)
 having its office at Bank of India)
 Building, Fort, Mumbai.)

2. Government of Maharashtra through)
 Secretary, Public Works Department,)
 Mantralaya, Mumbai.)

3. Government of Maharashtra)
 Through Secretary,)
 Water Resources Department,)
 Mantralaya, Mumbai.)

4. Government of Maharashtra,)
 through The Secretary, Water)
 Supply and Sanitation Department,)
 Mantralaya, Mumbai.)....**Respondents**

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Shri M.D. Lonkar, learned Advocate for the Applicants.

Shri N.P. Dalvi, the learned Special Counsel for the Respondent No.1.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.2 to 4.

CORAM : Shri Rajiv Agarwal, Vice-Chairman

Shri R.B. Malik, Member (J)

DATE : 18.07.2016

PER : Shri Rajiv Agarwal, Vice-Chairman

ORDER

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicants, Shri N.P. Dalvi, the learned Special Counsel for the Respondent No.1 and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.2 to 4.

2. This Original Application has been filed by the Applicants who had appeared for the Maharashtra Engineering (Civil) Services (Main) Examination – 2013 conducted by the Respondent No.1 pursuant to the advertisement dated 13.9.2013, the written test for which was held on 11th & 12th January, 2014. The Applicants names were not included in the list of successful candidates, published by the Respondent No.1 on 24.09.2015. The Applicants have filed this O.A. seeking revaluation of their answer papers and they have also challenged the selection process adopted by the Respondent No.1.

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3. Learned Counsel for the Applicants argued that the Respondent No.1 did not adopt a fair selection procedure during the Maharashtra Engineering (Civil) Service (Main) Examination – 2013. The Applicant no.2 had submitted a representation dated 7.11.2015 pointing out various illegalities committed during the selection process. The entire selection process was required to be cancelled. Learned Counsel for the Applicant stated that answer papers were checked casually without considering the contents. In some cases, some answers were not assessed. There were other discrepancies in evaluation process. Interview marks were also assigned in casual manner without following uniform criteria. Learned Counsel for the Applicants prayed that the entire selection process may be cancelled.

4. Learned Special Counsel Shri N.D. Dalvi argued on behalf of the Respondent No.1 that the final result of the Maharashtra Engineering (Civil) Services Examination-2013 was declared on 24.9.2015. The marks of recommended candidates were displayed. A large number of candidates were provided copies of answer sheets, as demanded by them under the Right to Information Act (RTI). The Applicants were also provided with the copies of their answer sheets. Learned Special Counsel argued that the procedure adopted by the Respondent No.1 was as per the scheme of the said Examinations. The Applicants had participated at 3 stages in the selection procedure i.e. at Preliminary Examination, Main Examination and Interview. At no stage, any of the Applicants made any grievance about the selection

procedure. Having participated in the selection process, in which they were unsuccessful, the Applicants can not now challenge the selection process on the basis of vague allegations, not substantiated by any supporting material. Learned Special Counsel stated that as per the scheme of the Examination, no revaluation is permitted. Only, retotalling of marks is allowed. This is as per para 3.8.2 of the General Instructions to the candidates. Learned Special Counsel stated that Hon'ble Supreme Court has held that model answers are not required to be furnished to the candidates. He stated that a total of 3656 candidates appeared for Main Examination and 1195 candidates were called for interview. The answer sheets were evaluated as well as oral test was conducted meticulously following the scheme of examination. Learned Special Counsel stated that an Examiner has full authority to assign marks in written examination and the Respondent No.1 has no authority to interfere in this task. However if any discrepancy is noticed, appropriate action is taken. Answer sheet of all the candidates were checked by experienced examiners. Similarly, the interview committee has assigned marks to the candidate as per their performance in the interview. Learned Special Counsel argued, that the answer sheets of all the Applicants were retotalled and no discrepancies were found. He stated that this O.A. has no merit and may be dismissed.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondents Nos.2 to 4 that the role of Government is limited in this case. The task of recommending suitable

candidates is entrusted to the Respondent No.1 and the role of the Government is restricted to issue appointment letters to the recommended candidates.

6. It is seen that the Applicant has stated in this O.A. that the Respondent No.1 did not follow transparent and fair selection process. It is alleged that ineligible candidates were considered while meritorious candidates like the Applicants were deliberately disqualified. The Applicants have placed on record copies of their answer sheets, which according to them were not evaluated correctly. They have also placed on record a representation dated 7.11.2015 which points out shortcoming in the selection process. This representation is dated 7.11.2015, after the final result was declared on 24.9.2015, and presumably after the Applicants were furnished copies of their answer sheets. There is no other material on record to support the contention of the Applicants that the transparent selection process was not adopted or the selection process was arbitrary, malafide or contrary to fair play action. The Applicants have failed to give details of ineligible candidates, who were declared qualified. There is no material on record to support allegations of the Applicants. These vague allegations about the selection process adopted by the Respondent No.1 have to be rejected.

7. Coming to the issue of the marks allotted to the Applicants in the written examination, representation dated 7.11.2015, has listed discrepancies noticed in the answer

sheets of the Applicants. The details are also given in para 7.3 of the O.A. In the affidavit-in-reply dated 31.3.2016, the Respondent No.1 has replied to these averments in paras 23 to 31. The allegation that papers were casually checked is denied. It is stated that the answer sheets were examined by experinced examiners. In our view, so called discrepancies mentioned in para 7-3 of the O.A. have been satisfactorily explained by the Respondent No.1. In addition, retotalling of marks of the Applicants was being done and the Applicants will be informed of the result accordingly. The Applicants have not been able to make out any case that there were any irregularity in assessing answer sheets of the candidates or during interview. In any case, having participated in the selection process and failed, the Applicant cannot challenge the selection process. No specific irregularity, which would vitiated the selection process is pointed out by them.

8. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-
(R.B. MALIK)
MEMBER (J)

Sd/-
(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 18.07.2016

Place : Mumbai

Dictation taken by : SBA

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