

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 512 of 2017 (D.B.)**

- 1) Aparna Prabhakar Sontakke,  
Aged about 28 years, Occ. Service  
r/o Basera Apt. Building no.7 near  
R.M.S. Colony Behind Police Line Takli,  
Nagpur.
- 2) Pranjali Motiram Pawar,  
Aged about 32 years. Occ. Service,  
r/o Flat no.305 Max Pride  
Plot no.1&2 near V.T. Convent  
Beltarodi main Road, Beltarodi,  
Nagpur.
- 3) Kshitij Somdasji Moon,  
Aged about about 29 years, Occ. Service  
r/o Pimpalgao, Tq. Hinganghat,  
Dist. Wardha.
- 4) Sanjeevani Wankhede,  
Aged about 29 years, Occ. Service,  
r/o Vyankatesh City-1 Township, Arcade  
4, Flat no. T3 (Shirul) Post Ridhora (Satgaon),  
Tq. Hingna, Dist. Nagpur-441 108.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Irrigation Department, Madam Cama Road,  
Hutama Rajguru Square, Mantralaya, Mumbai.
- 2) Maharashtra Engineering Training Academy  
Anand Rishiji Maharaj Marg, Dindo Marg,  
Nashik-422 004.

- 3) Chief Engineer Water Resource  
Department Gosikhurd Project Water  
Resource Department, Civil Lines,  
Nagpur.

**Respondents**

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**Smt. Rashi Deshpande, Advocate for the applicants.**

**Shri A.M. Khadatkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGEMENT**

**(Delivered on this 16<sup>th</sup> day of October,2017)**

Heard Smt. Rashi Deshpande, Id. counsel for the applicants and Shri A.M. Khadatkar, Id. P.O. for the respondents. The O.A. is heard finally with consent of Id. counsel for parties.

2. The applicants are claiming direction to respondent no.2, i.e., Maharashtra Engineering Training Academy, Anand Rishiji Maharaj, Dindori Marg, Nashik to re-conduct the recognised examination paper-I or re-evaluate paper-I or to proportionately distribute 16 marks to question no.3 amongst the candidates in the interest of justice.

3. The applicants were appointed as Assistant Engineer on probation of two years and all of them are working in the Irrigation Department and have undergone training as required after appointment. The applicants are required to pass professional

examination as prescribed for the post during probation period or in a last chance as extended by the Government for one more year and if they failed to pass such examination, their services are likely to be terminated.

4. The respondents issued a Notification for professional examination on 19/8/2016 and the examination was to be conducted in between 21/11/2016 till 24/11/2016.

5. The examination has been divided into four parts, i.e., four papers total into 600 marks and the applicants are required to gain at least 270 marks for clearing the examination. A syllabus has been provided for each paper.

6. The applicants appeared for the examination accordingly. The question no.3 of paper-I was totally out of syllabus. The said question bears 16 marks.

7. The result has been declared on 19/5/2017. The applicants could not clear the examination as question no.3, as already stated, was out of syllabus. The applicants' right has been infringed as they could not succeed the examination because of the fault of respondent no.2. The applicants made representation to respondent no.2 on 24/5/2017, but no action has been taken and hence the applicants have filed this O.A.

8. The respondent no.2 filed affidavit-in-reply. It is denied that the question no.3 was out of syllabus. It is stated that it is essential for Engineers to have the basic knowledge of terminologies associated with Civil Engineering. As per syllabus of General Civil Engineering part-III, point no.4 of which states about "Sanitary and Water Supply Arrangement including Public Health Arrangement on large and small works of various categories such as building, roads, irrigation projects etc." The question was relating to such topic.

9. It is stated that the examination was held in November,2016 but instead of taking any objection at the time of examination, the applicants have filed this application after result was declared which clearly shows malafide on the part of applicants. By filing counter affidavit, the applicants tried to justify that question no.3 was not covered in the syllabus.

10. Even if for argument sake it is accepted that question no.3 was out of syllabus then in that case each and every candidate will have to be granted 16 marks as bonus and there will be no change in the result. The applicants ought to have taken objection immediately at the time of examination itself and they cannot now challenge the selection process merely because they have been unsuccessful. The similar fact has been considered by this Tribunal in O.A.No.113/2016 in the case of **Mulchand Devchand Mohabe & Ors. Versus State of**

**Maharashtra & Ors.**, decided by this Tribunal on 3/4/2017.

Considering the fact that the applicants have already taken part in the selection process and never challenged the same till they were declared unsuccessful, it was held that the challenge to selection process was not bonafide and the applicants have no locus standi to challenge the process once they have participated in the same.

11. The learned P.O. also placed reliance on (2016) SCC 454 in the case of **Madras Institute of Development Studies & Ano. Vs. K. Sivasubramaniyan & Ors.** In the said case the Hon'ble Apex Court has observed that when the selection process / procedure was not challenged and candidates consciously had taken part in the selection process, he was estopped from challenging the process of selection.

12. Considering the aforesaid aspects, I am satisfied that there is no merits in the O.A., hence the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**