

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 945/2019 (D.B.)

Shyamal D/o Dagdoba Kale,
Aged about 28 years,
Occ. Education, R/o Mardasgaon,
Post : Pathargaon, Tah. Pathari,
Dist. Parbhani.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.
- 2) District Selection Committee,
through it's President & District Collector,
Gondia, Dist. Gondia.
- 3) District Selection Committee,
through it's Member Secretary / Resident Dy. Collector,
Gondia.
- 4) Bharti Diwakarrao Deshmukh,
Aged : Major, Occ. Service,
R/o C/o Collector Office, Yavatmal.

Respondents.

Shri M.R. Khan, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondent nos.1 to 3.

None for respondent no.4.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Justice M.G. Giratkar,
Member (J).**

Date of Reserving for Judgment : 8th March, 2022.

Date of Pronouncement of Judgment : 10th March, 2022.

JUDGMENT

Per : Member (J).

(Delivered on this 10th day of March, 2022)

Heard Shri M.R. Khan, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for respondent nos.1 to 3. None for respondent no.4.

2. The applicant is challenging the inclusion of name of respondent no.4 in the final select list published by the respondent nos. 1 to 3 against the post reserved for Socially and Economically Backward Class (SEBC) (Woman) category despite the fact that, the respondent no.4 does not belong to Socially and Economically Backward Class (SEBC) category.

3. The case of the applicant in short is as under –

The applicant belongs to “Maratha” Caste. She has applied for the post of Talathi. As per the advertisement, 4 posts were reserved for SEBC category. Out of four posts, three posts were reserved for General and one post was reserved for Woman. The applicant belongs to Maratha Caste having ‘Non-creamy layer certificate’. The respondent no.4 obtained false Certificate. On the basis of false Certificate, she claimed the said post. In fact, the

respondent no.4 belongs to Kunbi Caste which is OBC. One post of Talathi as per the advertisement was reserved for SEBC category. The applicant belongs to SEBC and therefore she is entitled for the said post.

4. The application is opposed by the respondent nos.1 to 3 on the ground that the respondent no.4 produced SEBC Certificate. The name of the applicant is at Sr.No.59 in the merit list. The respondent no.4 secured more marks and her name is at Sr.No.24 in the merit list and therefore appointment is to be issued to the respondent no.4. As per the order of this Tribunal dated 28/11/2019, the respondent nos.1 to 3 were directed not to issue appointment letter to the respondent no.4. In view of this order, the appointment order to the respondent no.4 is not issued till date.

5. Heard Shri M.R. Khan, learned counsel for the applicant. He has pointed out seniority list on the establishment of the Collector, Yavatmal. The respondent no.4 is working as a Junior Clerk in the establishment of Collector, Yavatmal. Her seniority is at Sr.No.161, her caste is shown as Kunbi and category shown as OBC.

6. The learned counsel for the applicant has pointed out the School Leaving Certificate of respondent no.4 which is issued by the Yashvantrao Chavan College of Arts & Science, Mangrulpir, District Washim shows that the respondent no.4, Ku. Bharti Diwakarrao

Deshmukh belongs to Kunbi caste which is OBC category. The respondent no.4 submitted the Caste Certificate before the respondent nos.1&2. From the perusal of the Certificate filed by respondent no.2&3 with reply shows that it is not a reliable Certificate. There is no signature of Issuing Authority. The respondent no.4 though served not appeared. The contention of the applicant that the respondent no.4 is working as a Junior Clerk in the establishment of Collector, Yavatmal and her Caste is shown as Kunbi. It is also shown in the School Leaving Certificate and it is not denied by the respondent no.4. Therefore, it is clear that respondent no.4 belongs to Kunbi Caste. The seniority list of Junior Clerk in the establishment of Collector, Yavatmal shows that the name of respondent no.4 in the seniority list is at Sr.No. 161. Her caste is shown as Kunbi in the category of OBC. The School Leaving Certificate produced by the applicant shows that the respondent no.4 belongs to Kunbi Caste. There is no dispute that one post of Talathi was reserved for SEBC (Female) category. The respondent no.4 is not in SEBC category and therefore she is not entitled for the said post.

7. In that view of the matter, we pass the following order –

ORDER

- (i) The O.A. is allowed.

- (ii) The respondent nos.1 to 3 are directed to declare the applicant as select candidate no.1 in the SEBC (Female) category for the post of Talathi.
- (iii) The respondent nos.1 to 3 are directed to appoint the applicant on the said post within a period of one month.
- (iv) No order as to costs.

(Justice M.G. Giratkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 10/03/2022.

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 11/03/2022.

Uploaded on : 11/03/2022.