

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 770/2015.**

Dr. Rajeshree Digambarrao Raut,  
Aged about 38 years,  
R/o 27, Suman Castle, Flat No. 302,  
Hindustan Colony, Near LTI Campus,  
Amravati Road, Nagpur.

-----**Applicant.**

**Versus**

State of Maharashtra,  
Through its Principal Secretary,  
Higher and Technical Education Department  
Mantralaya, Mumbai

2. The Maharashtra Public Service Commission,  
Through its Secretary,  
Bank of India Building , 3<sup>rd</sup> Floor,  
M.G. Road, Hutatma Chowk, Mumbai.
3. Mohini Shripat prabhakar,  
Through respondent no. 2.,  
Secretary of M.P.S.C., Mumbai.
4. Prashant Ramrao Deshmukh,  
Through respondent no. 2  
Secretary of M.P.S.C. Mumbai.

----- **Respondents.**

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1. Shri V.A. Kothale, Advocate for the applicant.
  2. Shri P.N. Warjurkar, Presenting Officer for the Respondents. No. 1 and 2.
  3. None for Respondent Nos. 3 and 4.
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**CORAM** : **Rajiv Agrawal : Vice-Chairman (A)**  
&  
**J.D. Kulkarni : Vice-Chairman ( J )**  
**DATE** : **10<sup>th</sup> March, 2017**  
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**ORDER**

**PER MEMBER ( J )**

Heard Shri V.A. Kothale, Learned Advocate for the applicant and Shri P.N. Warjurkar, Id. Presenting Officer for the respondents No. 2. None for Respondent nos. 3 and 4.

2. The Learned Counsel for the applicant stated that the MPSC has issued an advertisement dtd. 27/3/2014 to fill up 8 vacancies of the Associate Professor in Electronics and Communications in Government Engineering Colleges in Maharashtra. The applicant has applied from 'OBC'(General) category for the said post. One post was reserved for OBC and a total 8 posts were to be filled out of which 4 posts were for 'Open'. 1 post was reserved horizontally for female. The Id. counsel for the applicant stated that the Respondent no.2 has recommended only 4 names against the 8 vacancies. Against 3 open vacancies, only 2 names have been recommended. One name has been recommended against the Open Female Category

post and 1 candidate has been recommended against the post reserved for 'OBC' who happens to be physically handicapped. The Id. counsel for the applicant stated that the applicant has scored more marks than both the Respondent no. 3 as well as Respondent no. 4. The Respondent No. 4 belongs to 'Open' category and scored 53 marks in the interview while the applicant has scored 65 marks. The fact that the applicant belongs to 'OBC Female' category is not relevant at all, because her selection should have been on the basis of her performance on merit as a Open candidate regardless of vertical and horizontal reservation category to which she belongs. The Learned Counsel for the applicant stated that out of 8 posts, 4 posts are not filled in and therefore even without disturbing any candidate, the applicant can be accommodated from 'Open' category.

3. The Id. P.O. opposed granting of any relief to the applicant. He stated that the Respondent no. 2 has prepared the select list strictly in accordance with the G.R. dated 13/8/2014 regarding application of horizontal reservation.

4. The issue raised by the applicant can be resolved without getting into the issue of horizontal reservation. We are

therefore, not getting into that. The fact is that the applicant happens to be 'OBC Female' candidate. She has scored 2<sup>nd</sup> highest marks in the merit list prepared by the Respondent no. 2. There were 3 'Open' vacancies and the person last in this list from the 'Open' category has scored only 53 marks. Obviously, the applicant is more meritorious and has to be considered from the 'Open' category regardless of the actual vertical reservation category to which she belongs as she is more meritorious than the selected candidate from the 'Open' category. This is regardless of any horizontal reservation category to which the Applicant may belong. The applicant is clearly eligible to be selected in the 2<sup>nd</sup> vacancy in the 'Open' category and the Respondent no. 4 can be selected in the 3<sup>rd</sup> vacancy from the 'Open' category. This can be safely done as MPSC has not recommended candidates for all 3 'Open' vacancies.

5. In view of the above discussion, the Respondent no. 2 is directed to recommend the name of the applicant from the 'Open' category for the post of Associate Professor in Electronics and Communications in Govt. Engineering Colleges considering her merit. It is not necessary to disturb any other candidates

who have already been recommended and might have been given appointment by the Respondent No. 1. The O.A. is allowed in terms of these directions with no order as to costs.

**Vice-Chairman (J).**

**Vice-Chairman(A).**

Skt.