

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.869 OF 2021

**DISTRICT: SOLAPUR
SUBJECT: SELECTION**

Ms. Priyanka Anant Vidyagar,)
Age 30 years, Occ. Nil.)
R/at Trimurthi Housing Society,)
Kurduwadi Road, Barsi, Tal. Barsi,)
Dist. Solapur. Mobile: 7972821902.)
email id. vidyagar.priyanka@gmail.com)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through its Principal Secretary)
General Administrative Department,)
Mantralaya, Mumbai - 400 032.)
- 2) Maharashtra Public Service Commission,)
through its Under Secretary, having its)
office at 5-1/2, 8th Floor,)
Cooperage Telephone Corporation Building)
Maharshi Karve Road,)
Cooperage Mumbai – 400 021.)
- 3) Pratibha Shamrao Dethe,)
C/o. Maharashtra Public Service)
Commission, through its)
Under Secretary, having its)
office at 5-1/2, 8th Floor,)
Cooperage Telephone Corporation Building)
Maharshi Karve Road,)
Cooperage Mumbai – 400 021.)... **Respondents**

Shri Shakur G. Kudle, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Smt. Justice Mridula R. Bhatkar, (Chairperson)**
Smt. Medha Gadgil, Member (A)

DATE : **19.07.2022.**

PER : **Smt. Justice Mridula R. Bhatkar (Chairperson)**

JUDGMENT

1. Learned Advocate for the Applicant, Shri S.G. Kudle submits that one seniority list was published on 19.06.2020 by M.P.S.C. M.P.S.C. has no power to revise the said list and published other list. He further submits that Respondent No.3 who is already given the posting as Deputy Superintendent, Land Record, was subsequently posted in the place of the Applicant i.e. Industries Officer (Technical), Group-B. Thus the learned Advocate for the Applicant submits that this is done because of the malpractice followed by Respondent No.2 – M.P.S.C. Learned Advocate for the Applicant further submits that the Applicant is deprived of the job though she has secured 442 marks which is cut off marks for S.C. female category. The Applicant has suffered injustice inspite of being meritorious. He therefore prays that seniority list dated 28.09.2021 be quashed and set aside and the Applicant be allowed to join her duties for the post of Industries Officer (Technical) Group-B and name of the Respondent No.3 be removed. The M.P.S.C. should not have given choice of posting to Respondent No.3 once it is already given when first list was published. He further submits that the entire matter be referred to the Premier Investigating Machinery to ascertain the real culprits and he submits that still one post is vacant and the Applicant be appointed in that S.C. female category.

2. Learned P.O. submits pursuant to the advertisement dated 04.01.2020, only one post was reserved for S.C. female in that cadre and on that post Respondent No.3 – Ms. Pratibha S. Dethe was appointed as she secured 464 marks more than the Applicant i.e. 442 marks. Respondent No.3 – Ms. Pratibha S. Dethe also belongs to S.C. category. Her name was given for appointment to the post of Deputy

Superintendent, Land Record and the Applicant was also appointed then to the post of Industries Officer (Technical), Group-B. However, subsequent to the judgment of Hon'ble Supreme Court in **Civil Appeal No.3123 of 2020 (@ S.L.P. (C) No.15737 of 2019) filed by Dr. Jaishri Laxmanrao Patil v/s. The Chief Minister & Anr. decided on 09.09.2020**, the first list of 19.06.2020 was required to be revised as Socially and Educationally Backward Classes (SEBC) was given to 'Maratha' caste candidate was cancelled. SEBC was merged in the open category, so SEBC category was accommodated in open category. In the revised list those candidates who previously were selected from Open category scrolled down to their respective categories and last candidates in the respective categories were thrown out of the consideration zone. Unfortunately, the Applicant who secured 442 marks and who was accommodated in the S.C. female category was replaced by Respondent No.3 – Ms. Pratibha S. Dethe who secured 464 marks. This happened due to the merger of SEBC with open category as the cut off for open category was increased to 521 marks.

3. We have considered the submissions of both sides.

4. For the post of Industries Officer (Technical), Group-B, S.C. female category cut off was 464 marks, and therefore the Applicant name was excluded, and the candidate who was more meritorious and fitting to that cut off marks i.e. Respondent No.3 – Ms. Pratibha S. Dethe was given appointment. Cut off marks of S.C. female category for the post of Deputy Superintendent, Land Record was 443 marks. This shuffling was done within the parameter procedure followed by M.P.S.C. The choice for change of posting was given to all the candidates after the revision of list, and therefore, Respondent No.3 – Ms. Pratibha S. Dethe was given choice posting and she was selected as Industries Officer (Technical), Group-B and other lady was posted on Deputy Superintendent Land Record who secured 443 marks.

5. In view of the facts of the case, and the revised list which was treated by M.P.S.C as new and final list, the choice of selecting posting was again given to all the candidates and unfortunately, when it was implemented the Applicant lost her choice to get appointed.

6. In view of above, O.A. is dismissed with no order as to costs.

Sd/-
(Medha Gadgil)
Member (A)

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

Place: Mumbai
Date: 19.07.2022
Dictation taken by: N.M. Naik.