

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.1327 OF 2022

1. Shubham Suresh Bhotmange
Age. 27 years, Occ. Student,
R/at. C/o. B-301, Tulsi Plaza Bldg.,
Near Navli Phatak, Lokmanya Nagar,
Palghat (W), Palghar 401404
Plot No. 36, Near Giradkar
Polytechnic, Aherrao Layout,
Umred 441203
2. Shubham Mahadevappa Rajmane
Age. 27 years, Occ. Student,
R/at. Shivkrupa Niwas, Parli-Beed Road,
In Front of Market Yard, Sirsala,
Tq. Parli, Dist. Beed – 431128
3. Bhausahab Megha Jadhav
Age. 31 years, Occ. Student,
R/at. Rajpimpri Tal. Georai,
Dist. Beed
4. Anil Vishnu Shinde
Age. 25 years, Occ. Student,
R/at. Wahegaon, Post. Shekta,
Tal. A'bad, Dist. Aurangabad – 431007
5. Laxmikant Prakash Nakate
Age. 29 years, Occ. Student,
R/at. Post Akluj, Tal. Malshiras,
Dist. Solapur – 413101
6. Mandar Pandurang Bharati
Age. 31 years, Occ. Student,
R/at. Tridal, Nageshwar Society, Parner,
Tal. Parner, Dist. Ahmednagar – 414302
7. Suraj Yashwant Patil
Age. 27 years, Occ. Student,
R/at. Ujani (Ma), Tq. Madha,
Dist. Solapur 413210

8. Mayur Suresh Mane
Age. 27 years, Occ. Student,
R/at. Post. Gondi, Tal. Karad,
Dist. Satara 415108
9. Sagar Balasaheb Khande
Age. 32 years, Occ. Student,
R/at. Khande Galli, Deolali Pravara,
Marwadi (N.V.) Rahuri, Ahmednagar,
Maharashtra 413716
10. Jayant Rajubhai Kohale
Age. 26 years, Occ. Student,
R/at. Ward No. 2, Zadshi Seloo,
Wardha, Maharashtra 442104
11. Amol Marotirao Markad
Age. 25 years, Occ. Student,
R/at. Dhilli, Post. Jaipur,
Tq. Dist. Washim 444507
12. Chandrakant Madhav Wath
Age. 27 years, Occ. Student,
R/at. Post Kekatumara, Tal. Washim,
Dist. Washim 444505
13. Shubham Shriram Bholane
Age. 25 years, Occ. Student,
R/at. Chikhli, Tq. Chikhli,
Dist. Buldhana, Maharashtra 443201
14. Pankaj Shivaji Jadhav
Age. 29 years, Occ. Student,
R/at. Haranbari, Post. Mulher,
Tal. Baglan (Satana) Dist. Nashik 423302
15. Pratik Sunil Bhingardive
Age. 28 years, Occ. Student,
R/at. Plot No. 7, Shahumaharaj Hsg. Soc.,
Near Bhingar Tekadi, Bingar 414002
16. Pratik Sanjay Shrikondawar
Age. 28 years, Occ. Student,
R/at. Dhawale Layout Morwa,
Ward No. 1, Nagpur Road, Post. Morwa,
Tah. Dist. Chandrapur 442406

17. Akshay Janardhan Murme
Age. 27 years, Occ. Student,
R/at. Maroti Nagar, Mayur Park,
Plot No. 21, Opp. Saimulvydhan Hospital,
Aurangabad
18. Himanshu Devidas Nagare
Age. 26 years, Occ. Student,
R/at. S/o. Devidas Nagare, Pipada Galli,
A/p. Rahata, Tal. Rahata, Dist. Ahmednagar,
Maharashtra 423107
19. Omkar Chandrakant Bhegade
Age. 24 years, Occ. Student,
R/at S/o. Chandrakant Bhegade,
Near Gharawadi Railway Station,
279, Shaniwas Peth, Khalwadi, Talegaon,
Tabhade, Pune 410506
20. Manish Vasant Dangat
Age. 25 years, Occ. Student,
R/at. R.C. Marg, Opp. Navjeevan Soc.,
Samrat Ashok Nagar – 2, Near Hanuman
Mandir, Chembur, Mumbai 400074
21. Anil Punjaji Kene
Age. 32 years, Occ. Student,
R/at. Mata Mahakali Nagar,
Malkapur, Dist. Buldhana
22. Shrirang Shivaji Gaykar
Age. 33 years, Occ. Student,
R/at. Otur, Bogul Hospital,
Patil Ali, Tq. Junnar, Dist. Pune 412409
23. Palash Rajendra Wagh
Age. 26 years, Occ. Student,
R/at. 20, Balaji Nagar, Deopur,
Dhule 424002
24. Pravin Tanaji Karande
Age. 29 years, Occ. Student,
R/at. JUjarpur, Junoni, Tq. Sangola,
Dist. Solapur

- 25.Kakarao Yadavrao Kharat
Age. 28 years, Occ. Student,
R/at. Post Hasanbad, Tq. Bhokardan,
Dist. Jalna
- 26.Kiran Tukaram Sabne
Age. 29 years, Occ. Student,
R/at. 0256/15, Behind NMMC Hospital,
Bindumadhav Nagar, Digha, Navi Mumbai 400708
- 27.Raju Kanhu Wagarhande
Age. 28 years, Occ. Student,
R/at. Kurha, Post. Sukali, Tq. Arni,
Dost. Yavatmal
- 28.Kedar Uttam Ghagde
Age. 23 years, Occ. Student,
R/at. 128, Venkattapura Peth,
Dist. Satara
- 29.Pankaj Subhashrao Gadekar
Age. 29 years, Occ. Student,
R/at. Shri Sai Mansi Apartment,
Pimple Gurav, Pune 411061
- 30.Suraj Shivaji Ugale
Age. 30 years, Occ. Student,
R/at. Survey No. 7393, Near Kamla
Ayurvedic Hospital, Balika Ashram Road,
Wagh Mala, Nagar, Ahmednagar 414001
- 31.Chapansing Ganesh Rajput
Age. 27 years, Occ. Student,
R/at. Post Raipur, Tq. Buldhana,
Dist. Buldhana 443001
- 32.Prashant Narayan Shelke
Age. 27 years, Occ. Student,
R/at. Risod Road, Datta Nagar,
Lakhala, Dist. Washim 444505
- 33.Akshay Sambhaji Naiku
Age. 27 years, Occ. Student,
R/at. 933, Nehri Chowk, Bingar,
Dist. Ahmednagar 414002

- 34.Sagar Jaywant Pawar
Age. 27 years, Occ. Student,
R/at. Near New Deaf-Mute School,
Urulikanchan, Pune 412202
- 35.Yogesh Netaji Kamble
Age. 25 years, Occ. Student,
R/at. Gayranwadi Road, Kanap Mala,
Narwad, Sangli 416409
- 36.Amol Ashokrao Jagtap
Age. 29 years, Occ. Student,
R/at. Talepimpalgaon, Tal. Patodi,
Post. Tambarajuri, Dist. Beed 414204
- 37.Arvind Subhash Rathod
Age. 26 years, Occ. Student,
R/at. Post Akoli, Tq. Umarkhed,
Dist. Yavatmal
- 38.Vijay Ganesh More
Age. 25 years, Occ. Student,
R/at. Panchala, Post. Washim,
Tq. Dist. Washim 444505
- 39.Sagar Tanaji Tangde
Age. 27 years, Occ. Student,
R/at. Hatedi kd, Post. Hatedi Bk,
Tq. Dist. Buldhana
- 40.Dharmraj Dasharath Rajebhosale
Age. 30 years, Occ. Student,
R/at. Post Tanhu, Tq. Indapur,
Dist. Pune
- 41.Kamlesh Manoj Suryavanshi
Age. 28 years, Occ. Student,
R/at. Tulsi Plaza Building, Block No, 301/B,
Kacheri Road, Near Navali Phatak,
Palghar West, At Post Tq. Dist. Palghar 401404
- 42.Shashank Pandurang Ghare
Age. 29 years, Occ. Student,
R/at. Ganga Apartment, A-4,
Kashinath Patil Nagar, Pawar Hospital Jawal,
S. No. 20/2, Pune City, Dhanakawadi,
Dist. Pune 411043

43. Komal Dnyandev Pawar
Age 28 years, Occ. Student,
R/at. Teacher Colony, Police Station Road,
Mhaswad, Tq. Mann, Dist Satara 415509
44. Smita Vikram Aher
Age. 33 years, Occ. Student,
R/at. 1/1, Sampat Chawl, Laxman Nagar,
Jogeshwari (E), Mumbai – 400060
45. Priti Ashok Mane
Age. 28 years, Occ. Student,
R/at., Ramnath Dubey Chawl,
Carter Road No. 7, Borivali (E), Mumbai
46. Vaibhav Prabhakar Chavan
Age. 27 years, Occ. Student,
R/at. Matoshri Niwas, Geeta Nagar,
Nanded 431605
47. Shubham Vijayran Kapile
Age. 26 years, Occ. Student,
R/at. At Post Nerpinglai,
Tq. Morshi, Dist. Amravati
48. Kiran Kacharu Gholap
Age. 34 years, Occ. Student,
R/at, Flat No. 9, Swami Samarth Krupa
Soc., Gulmohar Nagar, Nashik – 422004
49. Gajanan Vitthalrao Kubde
Age. 28 years, Occ. Student,
R/at. Falkalas, Tq. Purna,
Dist. Parbhani
50. Amit Bhojram Kuranjekar
Age. 26 years, Occ. Student,
R/at. S/o. Bhojram Kuranjekar,
Ward No. 1, At Post. Soni,
Tah. Goregaon, Dist. Gondia -441801
51. Atish Subhash Narawade
Age. 27 years, Occ. Student,
R/at. Takali (Khatgaon) Tq. Nagar,
Dist. Ahmednagar 414103

- 52.Sandip Laxman Devre
Age. 28 years, Occ. Student,
R/at. 102/1st Floor, Paras Apt.,
Pawshe Chowk, Katemanawali Road,
Kolsewadi, Kalyan (E),
- 53.Nitin Ganeshrao Wadgave
Age. Adult, Occ. Student,
R/at. Narshi Tanda, Po. Narshi,
Tq. Naigaon, Dist. Nanded 431709
- 54.Nitish Balashiram Thorat
Age. 31 years, Occ. Student,
R/at. Sr. No. 676, Ganesh Paradise Soc.,
Flat No. 16, Near Blue Heavens School,
Bibwewadi, Pune 411037
- 55.Sandesh Jayawant Chavan
Age. 31 years, Occ. Student,
R/at. Post Karawadi, Tq. Karad,
Dist. Satara 415105
- 56.Chandrashekhar Kumar Raut
Age. 27 years, Occ. Student,
R/at. Raut-Harale Galli, Tung,
Tq. Miraj, Dist. Sangli 416301
- 57.Pankaj Chintamanrao Jadhav
Age. 26 years, Occ. Student,
R/at. Pankaj Niwas, Vasmat Road,
Dist. Parbhani 431401
- 58.Sambhaji Vishnu Shinde
Age. 28 years, Occ. Student,
R/at. Bhoom, Tal. Bhoom,
Dist. Osmanabad 413504
Mob: 9762261542
- 59.Vivek Manohar Danshure
Age. 27 years, Occ. Student,
R/at. Ambika Apartment 2,
Dhad Road, Buldhana 443001

60. Manohar Mohanbua Bharati
Age. 26 years, Occ. Student,
R/at. Post Rahati (Bk), Dist Nanded.

61. Pallavi Sureshrao Balpande
Age. 24 years, Occ. Student,
R/at. Post Jamthi Ganeshpur,
Ward No. 3, Jamathi Ganeshpur,
Dist. Amravati

62. Prashik Vishwanth Arkade
Age. 29 years, Occ. Student,
R/at. Ramabai Ambedkar Nagar,
Highway Road, Near Siddheshwar Talao,
Khopat, Thane 400601

63. Raghvendra Nagnath Salgar
Age. 29 years, Occ. Student,
R/at. Plot No. 2/4, Rajiv Nagar,
Akkalkot Road, Near Mahadev Temple,
Dist. Solapur 413006

64. Ratan Tryambakrao Raybole
Age. 28 years, Occ. Student,
R/at. Kelpani Bk, Malkapur Bhil,
Tal. Akot, Post. Popatkhed,
Dist Aloka 444101

65. Vishal Venkatrao Kalyankar
Age. 26 years, Occ. Student,
R/at. Gogdari, Barul Marg,
Tq. Kandhar, Dist. Nanded

66. Rahul Ramnath Kale
Age. 25 years, Occ. Student,
R/at. Bhojewadi, Post Hivara,
Tq. Ashti, Dist. Beed 414202

...Applicants

Versus

1. The Secretary
Maharashtra Public Service Commission
5th, 7th and 7th Floor
Cooprej Telephone Exchange Bldg,
Maharshi Karve Marg,
Cooprej, Mumbai 400021

2. The State of Maharashtra
Through Secretary,
Home Department, Mantralaya,
Mumbai 400032

... Respondents

M/s. S.S. Dere & Assoc., learned Advocate for the Applicants.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar, Chairperson
Ms. Medha Gadgil, Member-A**

DATE : 05.01.2023

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. It is the examination for the post of PSI wherein physical fitness is important. The application is filed based on the speculations and apprehension that the applicants would not be able to perform well in the physical test. Applicants pray that the Tribunal to hold the Corrigendum dated 13.12.2022 is not applicable to the selection process initiated pursuant to the advertisement No.05/2020 dated 28.02.2020, for Maharashtra Sub-Ordinate Services, Non-Gazetted, Group B, Preliminary Examination, 2020 and further direct the Respondent No.1 to follow the Selection Process as per Proclamation dated 25.05.2021 and corrigendum dated 13.12.2021 and as per General Instructions dated 14.11.2022. The Respondent No.1, Maharashtra Public Service Commission (M.P.S.C.) issued notification for Maharashtra Sub-Ordinate Services, Non-Gazetted, Group B, Preliminary Examination, 2020 for 650 posts of Police Sub Inspector (PSI). These 66 Applicants appeared for the same

challenge the Corrigendum dated 13.12.2022 issued by the Respondent No.1 as it is not to be made applicable to the Selection Process initiated earlier.

2. The undisputed facts can be summarized as follows :-

The Advertisement was issued for 650 posts of P.S.I. on 28.02.2020. As per Clause 3(1) of the said advertisement the examination was held in 4 stages for the post of PSI.

Firstly, all the candidates are required to appear for the Preliminary Examination of 100 marks. The candidates who cleared the Preliminary Examination are shortlisted and eligible to appear for the Main Examination of 200 marks. The candidates who cleared the Main Examination, to appear for physical test of 100 marks. After clearing the Main Examination, for the purpose of shortlisting, for physical test, ratio of 1:4 is required to be maintained. Thus, out of those 400 marks, candidates who secure more marks will be shortlisted as per ratio of 3:1, for the interview 40 marks. Thus, the examination is of total 440 marks and total of the marks secured at all 4 stages is taken into account for fixing the final merit list. On 13.12.2022, the M.P.S.C. issued notification of counting of marks which is consistent with the advertisement regarding minimum marks required to be obtained in the physical test which is of 60 marks and those marks will be counted for deciding the final merit list.

3. In between on 25.05.2021 the pronouncement was published by the M.P.S.C. in respect of modification in events of

physical tests and method the counting of marks for eligibility in respect of physical test. The Ghoshna is reproduced below :

“१. शारीरिक चाचणीचे गुण अर्हताकारी करण्यात आले असून शारीरिक चाचणीत उत्तीर्ण होण्यासाठी एकूण गुणांपैकी किमान ६० टक्के गुण (म्हणजे ६० गुण) मुलाखतीस पात्र होण्यासाठी आवश्यक राहतील. तसेच या गुणांचा अंतिम गुणवत्तेकरिता/ अंतिम निवडीकरीता विचार होणार नाही –
२. तसेच सर्व शारीरिक चाचणीतील एकूण गुणांची बेरीज अपूर्णाकात असल्यास ती अपूर्णाकातच ठेवून, शारीरिक चाचणीचा निकाल तयार करण्यात येईल.”

Clause 1 states that the marks obtained in physical test will not be considered in total calculation for deciding the final merit list. However, it is necessary for the candidates to secure minimum 60% in physical test to be eligible for the interview. Secondly, the total of marks in all the events of the physical tests secured in fraction, it is not to be rounded up. On 14.07.2021 the M.P.S.C. published one Notification pursuant to the decision of the Hon'ble Supreme Court in **Civil Appeal No.3123/2020 & Ors. decided on 05.05.2021, Dr. Jaishri Laxmanrao Patil Versus The Chief Minister & Ors.** wherein the Hon'ble Supreme Court had declared SEBC Act as ultra vires, thereby making SEBC reserved posts available to open category. On the basis of changed scheme as per pronouncement dated 25.05.2021 and corrigendum dated 13.12.2021 thereby confirming the Notification the Main Examination was conducted on 04.09.2021 which was of 400 marks instead of 200 marks. Thus the criterion of granting of marks and cut-off marks for physical test were changed from the earlier advertisement dated 15.02.2018. So far as these facts are concerned Applicants have no grievance. After the main examination the candidates are shortlisted maintaining the ratio 1:4. The names of the applicants are included in the list.

4. The M.P.S.C. issued again notification/ declaration dated 13.12.2022 modifying earlier pronouncement of 25.05.2021. By this pronouncement the M.P.S.C. declared the policy of counting marks which is again changed and the pronouncement of 25.05.2021 would not be applicable for this present examination of PSI, but the criteria and the earlier method of counting of marks published in the advertisement dated 15.12.2018 is hereby made applicable and accordingly physical test would be taken so also the rules of eligibility would be made applicable as per advertisement dated 15.12.2018.

5. Learned Advocate Mr. Dere has submitted that the Applicants are aggrieved by the action of the M.P.S.C. of issuance of Notification dated 13.12.2022. He submitted that the present Applicants have appeared for the Main Written Examination of 400 marks and as per the Advertisement of 2018 the written examination was only of 200 marks. He has submitted that the applicants have cleared the Main Examination with good marks. By proclamation dated 25.05.2021 and corrigendum dated 13.12.2021 the marks of the physical test were not to be added in the total marks. Now on account of changed method of adding the marks of physical test the applicants though have secured very good marks in main examination may not be selected if they do not perform well in the physical test. They may secure only passing marks of 60, out of 100 marks. He has submitted that the action of M.P.S.C. of changing the criterion in the middle of the Selection Process by corrigendum dated 13.12.2022 is illegal and is to be set

aside. Learned Advocate for the Applicants relied on the judgment of Hon'ble Supreme Court in the case of **K. Manjusree Versus State of Andhra Pradesh and Another reported in (2005) 3 SCC 512.**

6. Learned Advocate has further expressed the apprehension that the candidates are going to be called for the interview as per the ratio of 3:1 and under such circumstance by adding the marks of physical test in the total marks the applicants may lose their chance of getting shortlisted for the purpose of interview. Hence, the said Notification causing prejudice to the applicant to be set aside.

7. In the case of **Manjusree (supra)** the Hon'ble Supreme Court has held that the recruitment of the District & Sessions Judges (Grade-II) in the Andhra Pradesh State Higher Judicial Services Rules, 1958 wherein the criterion for selection was not prescribed in the said case. In the said case the select list was declared. In the case of **Manjusree (supra)** after the written examination and interview was over the Appellate High Court (on administrative side) made two changes. Firstly, marks for written examination were proportionately scaled down so as to maintain ratio between written examination and interview as 3:1 (75:25) instead of 4:1 (100:25). Secondly, it introduced minimum qualifying marks for interview and therefore, the final select list was reshuffled. It is a settled position that the rules / or the conditions once declared in the advertisement cannot be changed in the middle of the process. On this background, the present case is tested.

8. From the beginning in the advertisement it is mentioned that the marks obtained in physical test shall be given weightage for the eligibility. The applicants' have no grievance for giving weightage that minimum marks to be secured in the physical test i.e. 60%, out of 100% for eligibility. The main grievance is of addition of those marks in total marks while preparing the final merit list. Clause 3.11 of the said advertisement in fact states that the M.P.S.C. has power to change the scheme/ method of allocation/ calculation of marks in the physical test during the Selection Process. By pronouncement the changed criterion dated 25.05.2021 by the M.P.S.C. of exclusion of marks of the physical test while calculating the total marks while fixing final select list after the interview. However, though it was changed the same was not objected by the applicants.

9. In the present case, we advert to Clause 3.7 and Clause 3.11 of the advertisement dated 28.02.2020 wherein the said Clauses read as under :

“३.७ पोलीस उप निरीक्षक संवर्गाकरीता शारीरिक चाचणीच्या निकालाच्या आधारे मुलाखतीसाठी पात्र ठरलेल्या उमेदवारांनाच मुलाखतीसाठी बोलविण्यात येईल.”

which is translated at ad-verbatimim,

For the post of PSI the candidates who have cleared physical test are eligible for interview.

So also Clause 3.11,

“३.११ मुख्य परीक्षेच्या परीक्षा योजनेमध्ये तसेच पोलीस उपनिरीक्षक संवर्गाच्या शारीरिक चाचणीच्या गुणदान पध्दतीमध्ये बदल/ सुधारणा होण्याची शक्यता आहे. यासंदर्भात आयोगाच्या संकेतस्थळावर स्वतंत्रपणे घोषणा प्रसिध्द करण्यात येईल.”

which is translated at ad-verbatimim,

There is possibility of change in the scheme of the Main Examination so also in granting marks in the physical test and in that even independent pronouncement would be displayed on the web-site of M.P.S.C.

Thus the candidates were aware that M.P.S.C. has power to make change in the allotment of marks.

10. Let us high-light the chronology of the relevant dates of the examination, the pronouncement and the corrigendum. The result of the main examination was conducted on 04.05.2021 i.e., after criterion was changed on 25.05.2021. The main examination of 400 marks was conducted. On query learned C.P.O. informed that earlier the examination was of 200 marks. However, the method of conducting the examination of two papers of 2 ½ hours each remained the same only the figures of marks changed, which is not disputed by the learned Advocate for the Applicant. Respondent, M.P.S.C. did not conduct physical test after 13.12.2021 till date. Thus two parts of the examination i.e. Preliminary and Main are over. However, 50% of the examination i.e. physical test and interview, both are yet to be conducted. No change is made in the marks granted in earlier Preliminary or Main Examination on account of Notification dated 13.12.2022. The scheme of inclusion of the marks in the physical test while counting total marks was earlier declared in the advertisement and now adherence to the same is made clear to the candidates before conducting the physical test. On this point itself, the facts of the present case are distinguishable from the case of **Manjusree (supra)**. No

retrospective effect of the Notification of 13.12.2022 is given but it is applicable prospectively i.e. for the physical test which is to begin from 09.01.2023. In the present case neither the final select list is prepared / published nor the entire examination is over. Hence, there is no issue of reshuffling of any select list. The ratio laid down in the case of **Manjusree (supra)** is not applicable to the present set of facts. All the candidates who are shortlisted for physical test are required to obtain minimum 60% marks, to be eligible for the interview and further they also should be qualified in the merit as to 3:1 ratio prescribed for the interview. The application filed under the fear and does not reveal violation of any legal right. The possibility that the applicants may excel in physical test and may secure very good marks cannot be denied. However, it is a matter of basic confidence and competitive spirit of the applicants. The pessimistic attitude or diffidence cannot be entertained under the garb of breach of the legal right.

11. Original Application is devoid of merit and hence dismissed.

Sd/-

**(Medha Gadgil)
Member (A)**

Sd/-

**(Mridula Bhatkar, J.)
Chairperson**

prk

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.1327 OF 2022

Shubham Suresh Bhotmange & Ors.Applicants
Vs.

The State of Maharashtra & Ors.Respondents.

CORAM : **Justice Mridula Bhatkar, Chairperson**
Ms. Medha Gadgil, Member-A

DATE : 06.01.2023

PER : **Justice Mridula Bhatkar (Chairperson)**

SUO MOTO SPEAKING TO MINUTES

1. Suo moto speaking to minutes in order dated 05.01.2023. On the second reading after uploading the order some factual corrections in dates and some minor modifications are noticed. Hence, paragraphs No. 10 & 11 read as,

10. Let us high-light the chronology of the relevant dates of the examination, the pronouncement and the corrigendum. The result of the main examination was conducted on 04.05.2021 i.e., after criterion was changed on 25.05.2021. The main examination of 400 marks was conducted. On query learned C.P.O. informed that earlier the examination was of 200 marks. However, the method of conducting the examination of two papers of 2 ½ hours each remained the same only the figures of marks changed, which is not disputed by the learned Advocate for the Applicant. Respondent, M.P.S.C. did not conduct physical test after 13.12.2021 till date. Thus two parts of the examination i.e. Preliminary and Main are over. However, 50% of the examination i.e. physical test and interview, both are yet to be conducted. No change is made in the marks granted in earlier Preliminary or Main Examination on account of Notification dated 13.12.2022. The scheme of inclusion of the marks in the physical test while counting total marks was earlier declared in the advertisement and now adherence to the same is made clear to the candidates before conducting the physical test. On this point itself, the facts of the present case are distinguishable from the case of Manjusree (supra). No retrospective effect of the Notification of 13.12.2022 is given but it is applicable prospectively i.e. for the physical test which is to begin from 09.01.2023. In the present case neither the final select list is prepared / published nor the entire examination is over. Hence, there is no issue of reshuffling of any select list. The ratio laid down in the case of Manjusree (supra) is not applicable to the present set of facts. All the candidates who are shortlisted for physical test are required to obtain minimum 60% marks, to be eligible for the interview and further they also should be qualified in the merit as to 3:1 ratio prescribed for the

interview. The application filed under the fear and does not reveal violation of any legal right. The possibility that the applicants may excel in physical test and may secure very good marks cannot be denied. However, it is a matter of basic confidence and competitive spirit of the applicants. The pessimistic attitude or diffidence cannot be entertained under the garb of breach of the legal right.

11. Original Application is devoid of merit and hence dismissed.

Paragraphs 10 and 11 are substituted and the corrections are highlighted as follows:-

10. Let us high-light the chronology of the relevant dates of the examination, the pronouncement and the corrigendum. The result of the main examination was **declared on 17.11.2022** i.e., after criterion was changed on 25.05.2021. The main examination of 400 marks was conducted. On query learned C.P.O. informed that earlier the examination was of 200 marks. However, the method of conducting the examination of two papers of **2 hours** each remained the same only the figures of **the marks were changed**, which is not disputed by the learned Advocate for the Applicant. Respondent, M.P.S.C. did not conduct physical test after **13.12.2022** till date. Thus two parts of the examination i.e. Preliminary and Main are over. However, 50% of the examination i.e. physical test and interview, both are yet to be conducted. No change is made in the marks granted in earlier Preliminary or Main Examination on account of Notification dated 13.12.2022. The scheme of inclusion of the marks **of** the physical test while counting total marks was earlier declared in the advertisement and now adherence to the same is made clear to the candidates before conducting the physical test. On this point itself, the facts of the present case are distinguishable from the case of *Manjusree (supra)*. No retrospective effect of the Notification of 13.12.2022 is **not** given but it is applicable prospectively i.e. for the physical test which is to begin from 09.01.2023. In the present case neither the final select list is prepared / published nor the entire examination is over. Hence, there is no issue of reshuffling of any select list. The ratio laid down in the case of *Manjusree (supra)* is not applicable to the present set of facts. All the candidates who are shortlisted for physical test are

required to obtain minimum **50%** marks, to be eligible for the interview and further they also should be qualified in the merit as to 3:1 ratio prescribed for the interview. The application filed under the fear and does not reveal violation of any legal right. The possibility that the applicants may excel in physical test and may secure very good marks cannot be denied. However, it is a matter of basic confidence and competitive spirit of the applicants. The pessimistic attitude or diffidence cannot be entertained under the garb of breach of the legal right **and no prejudice is caused to the Applicants.**

11. In view of the relief prayed in O.A. nothing remains. Original Application is devoid of merit and hence dismissed.

Sd/-

(Medha Gadgil)
Member(A)

(Mridula Bhatkar, J.)
Chairperson

prk