

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.161 OF 2017

DISTRICT : Pune

SUB : SELECTION

Shri Dattatraya B. Kamble)
Age 29 years, R/at 13, Tadiwala Rd.)
behind 559 B.B.1 building, near)
Shur Veer Tarun Mandal,)
Pune 411 001.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Chief Secretary,)
Mantralaya, Mumbai 400 032.)
2. The Chief Secretary, Home Dept.)
Mantralaya, Mumbai 32.)
3. Commissioner of Police, Mumbai city))
Dr. D. N. Road, op. Crawford Mkt.)
Fort, Mumbai 400 001.) ...**Respondents**

Smt. Punam Mahajan, Advocate for Applicants.

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

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J
SHRI DEBASHISH CHAKRABARTY, MEMBER -A**

DATE : 21.06.2023.

PER : SHRI A.P. KURHEKAR, MEMBER-J

JUDGMENT

1. Heard Smt. Punam Mahajan, learned Counsel for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The Applicant has challenged communication dated 29.12.2016 whereby selection of the Applicant for the post of Police Constable in Recruitment process of 2015-2016 is cancelled on the ground that benefit of reservations is not applicable to migrants from other State.

3. Shortly stated facts giving rise to O.A. are as under :-

The Applicant had applied for the post of Police Constable in Recruitment Process of 2015-2016 initiated by Respondent No.3- C.P. Mumbai. He has submitted Caste Certificate of Schedule Caste issued by the Deputy Collector, Pune dated 10.01.2006. The said certificate was issued on the basis of Caste Certificate of his father issued by Tahsildar, Afzalpur, Gulbarga, State of Karnataka. The Applicant was accordingly selected. However, later the Respondent No.3 has cancelled Applicant's selection vide communication dated 29.12.2016 stating that benefits of reservations are not available to migrants since in present case, the Applicant is migrated from Karnataka. The Applicant has, therefore, challenge communication dated 29.12.2016 in the present O.A.

4. Smt. Mahajan, learned Counsel for the Applicant sought to assail the legality of communication dated 29.12.2016 *inter-alia* contending that Applicant personally cannot be termed as a migrated person since Applicant as well as his father born in Pune, State of Maharashtra. According to her, even if, his grandfather originally belongs to Karnataka, the Applicant cannot be termed migrated and entitled to the benefit of reservation for Scheduled Caste in Maharashtra.

5. Per contra, learned C.P.O. has pointed out that the Caste Certificate of Scheduled Caste availed by the Applicant has been issued on the basis of Caste Certificate of his father by Tahsildar, Afzalpur, Gulbarga, State of Karnataka where Applicant's caste is recognized as Scheduled Caste. She has further pointed out that this aspect is clarified by the Government in G.R. dated 01.11.1985 that the migrants are not entitled to the benefit of caste reservation in the State of Maharashtra and they can avail the benefit of reservation in their original State only.

6. In view of above, the small issue posed for consideration is whether impugned communicated dated 29.12.2016 cancelling selection of the Applicant suffers from any illegality and our answer is in emphatic negative.

7. The facts as narrated above are not in dispute. Admittedly, the Applicant's grandfather born in Karnataka State and he belonged to Holaya community which is recognized as Scheduled Caste in Karnataka State. There is no denying that Applicant's father as well as Applicant born in State of Maharashtra. However, the fact remains that Applicant's family is migrated family from State of Karnataka where Applicant's grandfather had availed Scheduled Caste certificate and it is on the basis of that Caste Certificate, the Collector, Pune issued Caste Certificate. There is specific mentioned in the Caste Certificate issued by the Collector, Pune that the said certificate is issued on the basis of Scheduled Caste certificate of Applicant's grandfather by Tahsildar, Afzalpur, Gulburga, State of Karnataka. Thus, apparently the Applicant's caste Holaya is recognized as Scheduled Caste in State of Karnataka.

8. Needless to mention that reservation is State policy and State of Maharashtra by G.R. dated 01.11.1985 made it clear in Para No.3 and 5 that migrants cannot avail the benefit of reservation in the State in which they are migrated. It is further clarified that they can avail the benefit of reservation in their original State and they have no right to claim any such right of reservation in State of Maharashtra. Para Nos.3 and 5 of G.R. dated 01.11.1985 in this behalf are material which are reproduced as under :-

"3. केंद्र शासनाने असे स्पष्ट केले आहे की, स्थलांतरितांना जातीचे प्रमाणपत्र देण्याची ही सवलत निव्वळ प्रमाणपत्रासाठी त्यांना त्यांच्या मूळ राज्यात जावे लागू नये व ते ज्या राज्यात स्थलांतरित झाले असतील त्या राज्यात त्यांना जातीचे प्रमाणपत्र मिळावे, यापुरतीच मर्यादित आहे. या प्रमाणपत्राच्या आधारावर त्यांना त्यांच्या मूळ राज्यातून अनुसूचित जातीसाठी असलेल्या सवलतीचा लाभ घेता येईल. परंतू ज्या राज्यात ते स्थलांतरीत असतील त्या राज्यातील सवलती त्यांना देता येणार नाही.

५. शासन असेही स्पष्ट करीत आहे की, अन्य राज्यातून या राज्यात स्थलांतरीत झालेल्या अनुसूचित जातदी किंवा अन्य मागासवर्गीयांना या प्रमाणपत्राच्या आधारावर त्यांच्या मूळ राज्यातून सवलतीचा लाभ घेता येईल. परंतु महाराष्ट्र राज्य शासनाच्या कोणत्याही सवलती त्यांना देता येणार नाहीत.’’

9. Indeed, the present issue has been already adjudicated by this Tribunal in ***O.A. No.293/2013 (Santosh Laxman Rathod V/s State of Maharashtra & Anr.)***, decided on 16.04.2014 that in view of G.R. dated 01.11.1985, migrants cannot claim the benefit of reservation in the State of Maharashtra. They can claim the benefit of reservation in their original State only. No other decision or Rule contrary to above is pointed out to take different view. If Applicant is permitted to avail the benefit of reservation in Maharashtra, it would adversely affect others who are legally entitled to such reservation in Maharashtra.

10. That apart, there is no challenge to legality of G.R. dated 01.11.1985 and it holds the field. In absence of any such challenge to G.R. dated 01.11.1985, the claim of the Applicant is totally devoid of merit.

11. As such, we see no legal infirmity in the impugned communication dated 29.12.2016 and the O.A. deserves to be dismissed.

12. No order as to costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(A.P. Kurhekar)
Member(J)

