

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.226 OF 2023

1. Nitin Laxman Khairnar)
R/o. Boris, Dist. Dhule 424 307)
2. Vicky Deelip Kasar,)
94, Dattashobha Ajbe Nagar,)
Behind VWS College Near Sonam)
Classes, Sakri Road, Dhule 424 001)
3. Amol Sahebrao Sontake,)
At Post – Palsa, Tal Hadgaon,)
Dist. Nanded 431 712)

....APPLICANTS

VERSUS

1. The Settlement Commissioner,)
And Director of Land Record,)
Maharashtra State, 2nd floor,)
New Administrative Building,)
Opposite Vidhan Bhavan, Pune 1)
2. The State of Maharashtra,)
Through Secretary, Ministry of)
Forest and Revenue, Mantralaya,)
Mumbai 400 614)
3. Surajkumar Satappa Patil,)
Kanthewadi, Radhanagari,)
Kolhapur 416 211)
4. Bipin Dnyandeo Nikam,)
Amol CHS, A-201,)
Plot No.B-185/186, Sector-18,)
Kopar Khairane,)
Navi Mumbai 400 709)

....RESPONDENTS.

Mr. S.S. Gosavi, learned Counsel for the Applicants.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar, Chairperson**
Mr. Debashish Chakrabarty, Member (A)

DATE : **05.02.2024.**

J U D G M E N T

1. All the three applicants have challenged the recruitment process for the post of Surveyor in view of Recruitment Rules dated 17.12.2011. The Respondents published the advertisement for recruitment to the post of Surveyor in December, 2021. This matter involves the issue with regard to eligibility on the basis of educational qualification and variance in the Recruitment Rules dated 17.12.2011 and advertisement dated 09.12.2021. The learned Counsel for the Applicant had argued that the respondents illegally allowed the candidates with Bachelor Degree in the Civil Engineering to participate in the Recruitment Process thereby leading to unjust competition between the candidates belonging to Bachelor Degree in the Civil Engineering and the candidates who completed two years course in Surveyor from I.T.I. or from Maharashtra State Board of Vocational Education. He pointed out that in the advertisement in Clause (2) the requisite education qualification is mentioned. The educational qualification mentioned for the post of Surveyor is consistent with Rule No.5 of the Recruitment Rules which is as follows :

“5. Appointment to the Grade-IV posts mentioned in the part ‘C’ of the Schedule shall be made by nomination from amongst the following candidates, who –

(i) are not more than 33 years of age.

Provided that the upper age limit be relaxed by 10 years in case of candidates already in Government Service.

(ii) Possess Diploma in Civil Engineering.

or

Have passed the Secondary School Certificate Examination and possess a two year certificate in 'Surveyor Trade.'

2. Learned P.O. has relied on Affidavit-in-Reply dated 05.04.2023 on behalf of Respondents through Mr. Jayant V. Nikam, Deputy Director of Land Record, Konkan Division, Mumbai. Learned P.O. submitted that subsequently the Corrigendum was issued by the Respondents on 10.12.2021. She states that by Corrigendum dated 10.12.2021 the candidates having Degree in Civil Engineering were allowed to participate in the examination for the posts of Surveyor-cum-Clerks were allowed to participate in the examination. This was done on the next day of the publication of the advertisement i.e. 09.12.2021. Learned P.O. has further relied on order **dated 23.11.2022 passed in O.A.No.1159/2022, Swapnil V. Jadhav Versus The Settlement Commissioner & Director of Land Record, & Ors.** She submitted that for recruitment to the post of Surveyor-cum-Clerk on identical point the same process has been challenged in O.A.No.1159/ 2022 and this said O.A. was rejected on 23.11.2022. The order passed by the Tribunal was challenged by the Applicant before the Hon'ble High Court in Writ Petition (Stamp) No.31643/2022. By order dated 09.01.2023 passed in W.P. (St) 31643/2022 the order passed in O.A.No.1159/2022 was confirmed by the Hon'ble High Court.

3. On query we were informed that one of the Applicants filled the Application Form on 12.12.2021 while another had done so on 16.12.2021 whereas the present O.A. is filed belatedly on 20.02.2023. Learned Counsel has submitted that the case of **Swapnil (supra)** and the present case of Applicants are different as they approached the judicial forum in the present matter immediately and in the matter of **Swapnil (supra)** there was delay. We are aware that earlier O.A. was filed and was pending before the Hon'ble High Court that period is not to be counted in computing delay however in the process of recruitment factor of delay matters when the process is half way done. The criterion given by the State cannot be disturbed once the application forms are being accepted; otherwise it may lead to injustice to others in view of the Article 16 of the Constitution.

4. In view of above, Original Application stands dismissed.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

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