IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.292 OF 2023

DISTRICT : KOLHAPUR

Shri Sanamkumar Pandit Mane,)
Age 31 years, Occ. Nil, R/o C/o. 33/5A/6 Bodhi,)
Swayambhu Ganesh Park, Karveer, Kolhapur 416013)..Applicant

Versus

1. The State of Maharashtra,)
Through its Secretary, Home Department,)
Mantralaya, Mumbai 400032)

2. Maharashtra Public Service Commission,)
Through its Under Secretary, 5, 7 & 8th Floor,)
Cooperage Telephone Exchange Building,)
M.K. Road, Cooperage, Mumbai 400021)..Respondents

Shri C.K. Bhangoji – Advocate for the Applicant
Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
RESERVED ON : 20th March, 2023
PRONOUNCED ON: 21st March, 2023
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. In this matter the Ld. Advocate for the applicant challenges the impugned communication dated 9.3.2023 issued by respondent no.2 holding that the applicant failed to produce the caste certificate issued by the competent authority of jurisdiction in the State of Maharashtra and is therefore not eligible for appointment to the post of Police Sub-Inspector (PSI) and hence was not allowed to participate in the interview.

2. The respondent no.2 published an advertisement dated 28.2.2020 for 650 posts of Police Sub-Inspector (PSI), Group-B (Non-Gazetted), out of which 56 posts were reserved for Schedule Caste (SC) category. The Ld. Advocate for the applicant submitted that applicant cleared the preliminary examination as well as main examination. He was called for physical test which was conducted on 8.2.2023 and he also cleared the physical test. He was informed by communication dated 9.3.2023 that he failed to produce the documents as per his caste claim as per the online application. Ld. Advocate for the applicant further submitted that respondent no.2 has committed an error in directing the applicant to produce the caste certificate issued by the competent authority of the State of Maharashtra when there was no such condition laid down in the advertisement and also in the online application displayed on the portal of the respondent no.2. He further stated that the action of the respondent no.2 in rejecting candidature of the applicant for interview under the SC category is not sustainable as it amounts to change of its own criteria after the recruitment process has started and that too after the interview.

3. The Ld. Advocate for the applicant submitted that the applicant belongs to SC category and has been granted caste certificate by the competent authority of Karnataka State as belonging to Mahar SC. This is on the basis of notification dated 10.7.2008 issued by GAD for

appointment of Marathi speaking candidates from 865 villages of Maharashtra-Karnataka Border dispute area in Maharashtra Government services. These 865 villages are from District Belgaum, Karvar and Bidar. The relevant portion of the said notification dated 10.7.2008 is reproduced below:

> "..... त्यामुळे महाराष्ट्र-कर्नाटक सीमा भागातील महाराष्ट्र शासनाने दावा सांगितलेल्या ८६५ गावातील मराठी भाषिक उमेदवारांना संबंधित पदांच्या सेवा भरती नि□मातील सर्व अटींची पूर्तता ते करीत असल्यास, त्यांना महाराष्ट्र शासनाच्या सेवेतील पदांवर नि□ुक्तीसाठी अर्ज करण्यास व त्यांची गुणानुक्रमे निवड होत असल्यास महाराष्ट्र शासनाच्या सेवेतील पदांवर नेमणूकीस ते पात्र रहातील. सदर उमेदवारांनी सेवा प्रवेश. नि□मातील इतर सर्व अटींची पूर्तता करणे बंधनकारक राहील."

4. Per contra Ld. CPO refers to GR dated 12.9.2008 which states that for appointment of Marathi speaking candidates from 865 villages of Maharashtra-Karnataka Border dispute area in Maharashtra Government services are not entitled to claim benefits applicable to backward-class in Maharashtra State. The relevant portion of the said GR dated 12.9.2008 is reproduced below:

> "महाराष्ट्र राज्याबाहेरील मागासवर्गीय उमेदवारांना महाराष्ट्रातील आरक्षणाच्या सोयीसवलती अनुशेष होणार नाही याबाबत शासनाने उपरोक्त संदर्भ क्रमांक ७ प्रमाणे केंद्र शासनाच्या आदेश लक्षात घेऊन शासन निर्णय निर्गमित करण्यात आलेला आहे. त्यानुसार महाराष्ट्रातील आरक्षणाचे / मागासवर्गीयांना देण्यात येणा-या सोयी-सवलती ह्या फक्त महाराष्ट्रातील मुळ रहिवाशी यांच्यासाठी असल्याचे स्पष्ट करण्यात आले आहे."

5. In the present case the applicant prays for direction to respondent no.2 to allow the applicant to participate in the ongoing interview for the post of PSI, Group-B (Non-Gazetted) in pursuance to the advertisement

dated 28.2.2020. While it is a fact that the applicant has a right to participate in the said recruitment process, the GR dated 12.9.2008 clearly states that he cannot claim reservation in the State of Maharashtra on the basis of caste certificate issued in the State of Karnataka. For these reasons the OA deserves to be dismissed.

6. Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
21.3.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
21.3.2023

Dictation taken by: S.G. Jawalkar.

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