

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.824 OF 2021**

Anjali Dinkar Tayade )  
Age : 20 years, )  
Residing at : Vikram Nagar, )  
Shivar, Akola )

**....Applicant**

**Versus**

1. The State of Maharashtra )  
Through Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )
2. The Superintendent of Police, )  
Sangli Meeraj Road, Vishrambaugh, )  
Sangli 416 415 )
3. Sub Divisional Officer, )  
Akola )

**....Respondents.**

Ms. Punam Mahajan, learned Advocate for the Applicant.

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

CORAM : Justice Ms. Mridula Bhatkar, Chairperson,  
Ms. Medha Gadgil, Member(A)

DATE : 29.10.2021

PER : Justice Ms. Mridula Bhatkar, Chairperson

## **J U D G M E N T**

1. The Applicant, aspiring to be Police Constable, challenges the order dated 13.10.2021 thereby disqualifying her at the time of verification of the documents on the ground that she has not submitted the caste certificate in a prescribed format.

2. The Respondents have issued the advertisement dated 23.08.2019 for filling up the post of Constables in District Sangli. The Applicant cleared the written examination on 29.09.2021 and has secured 74 marks out of 100 and in physical test she secured 37 marks out of 50 marks. Thus, she secured 111 marks, out of 150 marks. At the time of verification of the documents the Respondents objected the Caste Certificate dated 24.12.2009 of the OBC on the ground that the said Certificate is not in the prescribed format as per directions given in the order dated 16.04.2010. Hence, the Applicant has filed this O.A.

3. The learned Advocate Ms. Mahajan has submitted that the Applicant has filed the Caste Certificate dated 24.12.2009 that she belongs to Mali caste which is included in OBC category and the said Certificate was issued by the competent authority i.e. Sub Divisional Officer (SDO), Akola. Hence, it is a valid Caste Certificate. The Applicant has also submitted the Non-Creamy Layer Certificate dated 03.06.2019 to get the benefit of reservation. The learned Advocate has argued that the Respondents should not have raised this objection, but should have

considered her. The Applicant's father by way of abundant precaution has applied to SDO, Akola on 01.01.2019 by filling up the form for obtaining the Caste Certificate in the proforma. The Caste Certificate in the said proforma was issued to her on 08.10.2021 by the SDO, Akola. She has sent the said Certificate through whatsapp to the office of the Superintendent of Police (S.P.) Sangli, but submission through whatsapp was not accepted. The learned Advocate has further submitted that in view of the judgment of Hon'ble Supreme Court in ***Ram Kumar Gijroya Versus Delhi Subordinate Services Selection Board and Another, reported in (2016) 4 SCC 754***, wherein it is held that the valid caste certificate which is submitted of belonging to OBC after the cut-off date should have been accepted by the authority. The learned Advocate has further submitted that the SDO, Akola by letter dated 08.10.2021 has informed to S.P., Sangli that the Certificate dated 24.12.2009 was issued by SDO, Akola stating that she belongs to Mali caste and it was as per the prescribed format. In view of this, the learned Advocate submitted that her application is to be allowed.

4. Respondent No.2 is the main contesting party and has filed the affidavit-in-reply firstly on 27.10.2021, through Sub-Divisional Police Officer (SDPO), Islampur and Additional affidavit-in-reply dated 29.10.2021 is also filed by SDPO, Islampur pursuant to the order passed by this Tribunal dated 27.10.2021. The learned P.O. relied on both the affidavits while opposing the application.

5. The learned P.O. has submitted that the Applicant did not produce the Caste Certificate in the prescribed format as per the G.R. dated 30.06.2006. She has further submitted that it is the duty of the candidates to open the website of [www.mahapolice.gov.in](http://www.mahapolice.gov.in) or [www.sanglipolice.gov.in](http://www.sanglipolice.gov.in). wherein, necessary details about the Caste Certificate are mentioned. She has further submitted that the Applicant had knowledge that her Caste Certificate is not as per the requisite prescribed format. Therefore, she herself has submitted application on 01.01.2001 to SDO, Akola where she has enclosed the prescribed format of OBC Certificate. However, Caste Certificate dated 08.10.2021 was not to be submitted at the time of the application and thus the applicant is completely at fault for her disqualification on the ground of non-furnishing of Caste Certificate in the prescribed form.

6. The learned P.O. while assailing the submissions of learned Advocate on the point of ratio laid down in ***Ram Kumar Gijroya (supra)*** has submitted that the judgment of ***Ram Kumar Gijroya (supra)*** will not be useful to the present Applicant because the Hon'ble Supreme Court in ***Karn Singh Yadav Versus Govt. Of NCT Of Delhi, Special Leave to Appeal (C) No.14948/2016, dated 24 January, 2020***, has considered the issue of submissions of Caste Certificate after the cut-off date to the authority and after referring to the judgment of Hon'ble Division Bench in ***Ram Kumar Gijroya (supra)*** expressed its disagreement with the view taken by the earlier Bench and has expressed that if the applicants are allowed to submit the Certificate after notified cut off dates it would create

administrative chaos. She submitted that the Hon'ble Supreme Court referred the Division Bench matter for consideration before the Larger Bench of three judges on 24.01.2020 and thus the said view in **Ram Kumar Gijroya (supra)** is yet to be finalized.

7. We have gone through all the certificates and the documents and so also Government Resolutions dated 05.06.2006 and 30.06.2006. The only reason for disqualification of the applicant is that she did not submit the OBC Caste Certificate in the prescribed format. As per the Government Resolution (G.R.) dated 30.06.2006 one particular proforma 'D' is prescribed for OBC caste. As per the earlier G.R. dated 05.06.2006 the prescribed proforma was also given for OBC caste. Thus, the Government cancelled the earlier G.R. dated 05.06.2006 by its G.R. dated 30.06.2006 and changed the proforma of Caste Certificate. It is not the case that the Applicant did not submit any Caste Certificate to the authority along with her application. She has submitted the Caste Certificate dated 24.12.2009.

8. We have perused the Certificate minutely. Below in the said certificate there is also a portion written as Non-Creamy Layer Certificate. However, this is same form which is prescribed by the earlier G.R. dated 05.06.2006. It appears that the said proforma was prescribed at the relevant time and was issued by SDO, Akola thereafter in 2009. It appears that the SDO, Akola did not issue the Caste Certificate in the proforma prescribed as per the G.R. dated 30.06.2006 by which earlier

proforma of 05.06.2006 was cancelled. It is to be noted that the applicant has produced letter written by SDO Akola, dated 08.10.2021 to S.P., Sangli where he has approved and accepted that the Caste Certificate bearing No.11751 dated 24.12.2009 was issued as the Caste Certificate by the said office. The said certificate is about Mali caste and the said certificate was issued as per the erstwhile conventional prescribed form. This letter in fact has clarified the position that the certificate dated 24.12.2009 has been accepted as a valid Caste Certificate. There should not be any further insistence about the OBC certificate in the prescribed proforma once it is confirmed by the SDO, Akola that it was issued as per the erstwhile prescribed proforma of the OBC caste and the said Certificate is a genuine Certificate. It is not the case of the Respondent No.2 that it is fraudulent or false certificate. Thus the content in the Certificate is not a subject matter of challenge.

9. In order to have things more transparent we held video conference with the SDO, Akola and S.P., Sangli wherein we showed the certificate dated 24.12.2009 to the SDO, Akola and S.P., Sangli. SDO, Akola confirmed in the presence of S.P., Sangli that the said Certificate was issued by the office of SDO, Akola as per the erstwhile conventional proforma and the portion below the said certificate also used to be struck off as per the erstwhile convention. Thus, we have no doubt that this certificate dated 24.12.2009 was the OBC Certificate as per the erstwhile prescribed proforma. The caste is determined by the birth. It does not change like income or educational qualification. It remains the same and

therefore the caste certificate which was obtained in 2009 in favour of the applicant is found genuine as is issued as per erstwhile proforma. We have no hesitation to treat it as a valid caste certificate as per the proforma.

10. We would like to clarify certain things. We have perused the advertisement dated 23.08.2019. In the advertisement at Clause No.16 it pertains to reservation. In Clause No.16.1.1 the non-creamy layer certificate of the presiding economic year is required to be produced at the time of verification of the documents is specifically mentioned. We called upon learned P.O. and the officer from the office of Respondent No.2 to show the whether specific demand of the caste certificate in a prescribed format as per G.R. dated 30.06.2006 is mentioned in the advertisement. There is no mentioned in the advertisement itself about what type of proforma is required for caste certificate. In order to avoid such kind of confusion and misunderstanding of the candidates and also the authorities it is necessary for the recruiting authority to reproduce the specific proforma which is prescribed for Caste Certificate or Non-Creamy Layer Certificate on their website. It will be easy for the candidates to take printout of such proforma and get the certificate in the said proforma.

11. We on this point rely on the judgment of the Hon'ble Supreme Court in case of **Karn Singh Yadav (supra)** wherein the Hon'ble Supreme Court has referred the case of **Ms. Pushpa Versus Government, NCT of Delhi & Ors. reported 2009 SCC OnLine Del. 281**. In the case of **Ms. Pushpa**

**(supra)**, the Applicant has moved the application much prior to the date of the advertisement. In **Ms. Pushpa (supra)** it is observed as follows:-

*“In the case of Ms. Pushpa (supra), which was referred to in Ram Kumar Gijroya (supra) though the applicant had moved an application much prior to the date of the advertisement, the office of the competent authority took considerable time to make the required OBC certificate available. It was in such circumstances that the learned Single Judge of the Delhi High Court held that the applicant cannot be made to suffer for lapse on part of the SDM office in issuing the OBC certificate.”*

12. In the present case also on 01.01.2019 the Applicant's father has approached the SDO, Akola to issue the Caste Certificate in a particular proforma where the applicant's father has mentioned that the Caste Certificate which is issued by them is different than the prescribed format. The SDO, Akola issued another Certificate on 03.01.2019 which is also produced before us by the applicant to show that the said Certificate also was not as per the prescribed proforma. However the applicant has tried to obtained the said certificate from the concerned authority. She therefore has rightly submitted the earlier Caste Certificate on 24.12.2009 which was found to be as per the erstwhile prescribed proforma. We reiterate that if the demand is made by a candidate for issuance of any Certificate and if such Certificate is not given by the authority within time or the Certificate is issued in different proforma, the person or a candidate who has asked for the certificate cannot be held responsible. The Government servant who is the issuing authority is expected to have knowledge of the prescribed proforma. It appears that the proforma which is demanded by the Respondent No.2, is the proforma which is prescribed as per G.R. dated 30.06.2006. However, the concerned SDO, Akola was



not aware of the said G.R. by which the earlier G.R. which was issued 25 days earlier was cancelled. Thus, we find neither negligence nor any fault on the part of the applicant and therefore the objection raised in letter dated 16.04.2010 by the Respondent No.2 is not sustainable. The disqualification mentioned therein is incorrect and illegal and therefore it is hereby set aside.

13. In view of above, Original Application is allowed. No order as to costs.

Sd/-

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

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

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