

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.896 OF 2022**

**DISTRICT : SANGLI**

Sujata Supneakar )  
Nee Sujata Patil )  
Gajanan Colony, Mali Plot, )  
Old Kupwada Road, )  
Sangli 416 416 )

**..... Applicant**

**Versus**

1. Maharashtra Public Service )  
Commission, Through its )  
Secretary, M.T.N.L. 5<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> )  
floor, Maharshi Karve Road, )  
Cooperage, Mumbai 400 021 )
2. State of Maharashtra, )  
Through the Principal Secretary, )  
Higher and Technical Education, )  
Mantralaya, Madam Cama Road, )  
Hutatma Rajguru Square, Nariman )  
Point, Mumbai 400 032 )
3. Shetty Nikata Ravindra, )  
Assistant Professor, IT Department, )  
Government College of Engineering )  
Karad, Satara 415 124 )

**...Respondents.**

Mr. Kranti L.C., learned Advocate for the Applicant.

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

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

**DATE** : **26.04.2023.**

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

1. Applicant prays for direction to quash and set aside the Government order dated 07.06.2022 qua Respondent No.3, Shetty Nikata Ravindra working as Assistant Professor, IT Department. Applicant further prays to direct the Respondent No.1, Maharashtra Public Service Commission, Mumbai to recommend her name to the post of Assistant Professor in Computer Engineering meant for Women (Open) and to direct Respondent No.2, Principal Secretary, Higher and Technical Education to appoint her on the post of Assistant Professor in Computer Engineering.

2. Learned Advocate for the Applicant has submitted that pursuant to advertisement dated 03.04.2014 the Applicant had applied for the post of Assistant Professor in Computer Engineer. These are the posts of Assistant Professor in four Government Colleges of Engineering. The select list was published on 26.02.2016. One Sneha Gajananrao Farkade had filed O.A.No.219/2016 before M.A.T. Bench Nagpur challenging select list dated 02.12.2015 issued by Respondent No.2, M.P.S.C. for selection to the post of Assistant Professor in Government Engineering College on the ground that for open female post, females belonging to reserved category are not eligible to be considered. The said O.A. was dismissed by order dated 25.04.2017. The said order of M.A.T. Nagpur Bench dated 25.04.2017 was challenged before the Hon'ble

Bombay High Court, Nagpur Bench in Writ Petition No.2670/2017, Sneha Gajananrao Farkade Versus State of Maharashtra & Ors. on the ground that the most meritorious candidate (woman) has not been short listed. This decision was taken on the basis of the circular dated 13.08.2014. By judgment dated 11.09.2017, the Hon'ble Bombay High Court, Nagpur Bench observed that the present applicant in this O.A. Sujata Supneakar ought to have been selected. Applicant, Sujata Supneakar would be entitled to appointment on the post meant for open woman category as she has secured the highest marks amongst all women candidates. This judgment was challenged by the M.P.S.C. before the Hon'ble Supreme Court. By order 07.12.2021 passed in Special Leave Appeal (C) Nos.36927/2017, the Hon'ble Supreme Court dismissed the Special Leave Appeal. Thereafter, the Respondent issued impugned order dated 07.06.2022 wherein they did not change the select list. Learned Advocate has submitted that Respondent No.3, Shetty Nikata Ravindra was appointed in the category of women (open) whereas the applicant Sujata Supneakar should have been given appointment.

3. Learned Advocate for the applicant has submitted that the Hon'ble High Court went through an elaborate exercise and draw the select list which should have been followed by the M.P.S.C. The two questions raised herein are,

(i) Is there any vacant post available as on today ?

or

(ii) Whether the applicant is dislodging Respondent No.3 who is already appointed to the post of Assistant Professor Information Technology ?

4. Learned Advocate has submitted that Respondent No.3 has already joined on the post of Assistant Professor Information Technology and the post of Computer Engineer women (open) is still vacant in view of the stay given by the Tribunal by order dated 08.09.2022. Paragraph 5 of the Tribunal order dated 08.09.2022 reads as under,

“5. In view of the above facts and circumstances, we stay the operation of the impugned order dated 7.6.2022 qua Respondent no.3.”

5. Learned Advocate has submitted that in the light of findings of the Hon'ble High Court, Applicant Sujata Supnekar is the most meritorious women candidate and she should have been appointed on the said post. Learned Advocate has submitted that there is no delay in view of the fact that she is challenging the order dated 07.06.2022. Learned Advocate for the Applicant has submitted that in view of the fact that nobody is going to be dislodged.

6. Learned P.O. for the Respondents opposes the O.A. on the basis of affidavit-in-reply dated 17.04.2023 filed on behalf of Respondent No.1, Mr. Sanjay Tukaram Sherkar, Under Secretary in the office of Secretary, M.P.S.C. She has further submitted that there is delay in filing of O.A. by the Applicant as he is challenging the revised select list of the year 2017 in the year 2022. Learned P.O. on instructions submits that the post of Assistant Professor Computer Engineer is vacant.

7. In view of the fact that the applicant is meritorious candidate and as per the observance and findings by Hon'ble High Court in the case of Sneha Gajananrao Farkade (supra) that,

“8. Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order of the Tribunal is hereby quashed and set aside. The respondent no.2-M.P.S.C. is directed to recommend the name of the petitioner for the post of Assistant Professor in Computer Engineering meant for O.B.C. (Women). In the circumstances of the case, there would be no order as to costs.”

8. In view of the above, we pass the following order :

- (i) O.A. stands allowed.
- (ii) M.P.S.C. is directed to recommend the name of Sujata Supneakar to the post of Assistant Professor in Computer Engineering, Women (Open) category.
- (iii) The State to follow the procedure and take further steps in accordance with law.
- (iii) The said process is to be completed within a period of three weeks from the date of this order.

SD/-

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

SD/-

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

prk