

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.793 OF 2021
WITH
ORIGINAL APPLICATION NO.794 OF 2021**

DISTRICT:- NANDURBAR/PARBHANI

O.A.NO.793 OF 2021

Amit s/o. Raju Gaikwad,
Age : 30 years, Occ. Service
(as Pediatric Nurse, District Hospital,
Nandurbar), R/o. 203, Staff Quarters,
District Hospital, Nandurbar.
Mobile No.9561159974.
E-mail ID – agaikwad1388@gmail.com

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Additional Chief Secretary,
General Administration Department,
M.S., Mantralaya, Mumbai-32.
2. The Deputy Director,
Health Services (Nursing),
Health Services Commissionerate,
“Arogya Bhawan”, St. George’s Hospital
Campus, P.D’Mellow Road, Mumbai-01.
3. The District Civil Surgeon,
District Hospital,
Nandurbar.

... RESPONDENTS

O.A.NO.794 OF 2021

Yuvraj s/o. Shivaji Pawar,
Age : 30 years, Occ. Service
(as Pediatric Nurse, District Women’s
Hospital, Parbhani),
R/o. C/o. District Women’s Hospital,
Shastri Nagar, Parbhani.
Mobile No.9860897109.
E-mail ID – Pawaryuvraaj10@gmail.com

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Additional Chief Secretary,
General Administration Department,
M.S., Mantralaya, Mumbai-32.
2. The Deputy Director,
Health Services (Nursing),
Health Services Commissionerate,
“Arogya Bhawan”, St. George’s Hospital
Campus, P.D’Mellow Road, Mumbai-01.
3. The Medical Superintendent,
District Women’s Hospital,
Shastri Nagar, Parbhani.

... RESPONDENTS

 APPEARANCE : Shri A.S.Deshmukh, Advocate for
 Applicants in both cases.

: Shri V.R.Bhumkar, Presenting
 Officer for respondents in both cases.

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN
 AND
 SHRI BIJAY KUMAR, MEMBER (A)**

**Reserved on : 27-04-2022
 Decided on : 06-05-2022**

**C O M M O N O R D E R
(PER: JUSTICE SHRI P. R. BORA)**

1. Heard Shri A.S.Deshmukh, learned Advocate for the
 applicants and Shri V.R.Bhumkar, learned Presenting
 Officer for the respondents, in both cases.
2. Since the facts in both the Original Applications
 (O.As.) are identical and the similar prayers are made in

both these O.As., we have heard common arguments in both these O.As. and deem it appropriate to decide the same by common reasoning.

3. On 21-02-2019, an advertisement was issued by respondent no.2 for filling in various posts including the posts of Pediatric Nurse. In response to the said advertisement, the applicants submitted their applications and participated in the selection process. The names of both the applicants were included in the merit list as well as in the select list. Both the applicants belong to the backward class. Applicant Amit Gaikwad comes from Scheduled Caste (SC) whereas applicant Yuvraj Pawar belongs to Vimukt Jati (A) [VJ(A)] category. Both the applicants possess qualifications of B.Sc. Nursing as well as M.Sc. Nursing. Names of both the applicants are registered with the Maharashtra Nursing Council. After the names of the applicants were included in the select list, the respondent no.2 on 27-10-2021 issued the order of appointments in favour of both the applicants on the post of Pediatric Nurse. Subsequently, posting orders were drawn and accordingly both the applicants resumed duties at their respective places of posting.

4. Prior to that, applicant Amit Gaikwad was working at the Sub Centre of Primary Health Centre, Ahiwantwadi, Pandne, Tq. Dindori, Dist. Nashik whereas applicant Yuvraj Pawar was working at Primary Health Centre at Anjneri/Amboli, Torangan, Tq. Tryambakeshwar, Dist. Nashik in Zilla Parishad Nashik. After they were given appointment on the post of Pediatric Nurse, both the applicants resigned their previous job to join the post of Pediatric Nurse in pursuance of the appointment order dated 27-10-2021.

5. On 06-12-2021, respondent no.2 cancelled the appointments of both the applicants on the ground that the applicants were not fulfilling the criteria prescribed in the advertisement of securing minimum 45% marks in the examination. Aggrieved by the said order, the applicants have approached this Tribunal praying for quashment of the said order dated 06-12-2021 and the consequential relief of reinstatement with other benefits.

6. Shri A.S.Deshmukh, learned Counsel appearing for the applicants assailed the impugned order on various grounds. The learned Counsel submitted that after the result of the written examination was declared and

published, the marks received by the present applicants as well as all other candidates who had appeared in the said examinations have become known to the respondents. It is not in dispute that both the applicants had received marks less than 45%. Not only the applicants but there were some more candidates who had also received less than 45% marks. In spite of that, the select list was prepared by the respondents containing the names of the present applicants as well as some other candidates who have secured less than 45% marks.

7. The learned Counsel further submitted that thereafter the applicants were asked to remain present for counseling and for verification of documents vide letter dated 22-10-2021. Accordingly the applicants remained present on 27-10-2021 and on the same date, the orders of appointment came to be issued in favour of the applicants. Thereafter on 09-11-2021, the posting orders were issued in pursuance of which the applicants joined at their respective places.

8. The learned Counsel submitted that for joining on the subject post, both the applicants submitted their resignations for their earlier jobs, which have been

accepted. The learned Counsel submitted that after about one month the impugned order came to be served upon the applicants whereby their appointments have been cancelled.

9. Learned Counsel submitted that without giving any show cause notice and opportunity of hearing to the applicants, respondent no.2 has cancelled the appointment of the applicants. Learned Counsel further submitted that the fact that the applicants have not scored the minimum marks was well within the knowledge of the respondents even at the time of making their appointments and inspite of that when the applicants were called for counseling, for verification of documents etc., and their names were included in the select list, and thereafter the appointments came to be issued by the competent authority, it has to be presumed that the condition incorporated in the advertisement that the candidates must earn minimum 45% of the marks in the written examination was impliedly waived or relaxed by the respondents.

10. The learned Counsel submitted that it is not the contention of the respondents that any mischief was played by the applicants in securing appointment on the subject

post or that the applicants by making a false representation that they have obtained the qualifying marks have secured the appointments. It is also not the case of the respondents that the applicants produced false or forged documents at the time of verification of the documents and the said fact was noticed at the time of re-verification of the documents.

11. Learned Counsel further submitted that for joining on the subject posts after their names were included in the select list both the applicants submitted their resignation of the earlier job with Zilla Parishad Nashik. The learned Counsel submitted that for no fault on part of the applicants, the applicants have been punished. Relying on the judgment of the Hon'ble Supreme Court in the case of **Basudeo Tiwary V/s. Sidokanhu University [1998 (8) SCC 194]**, the learned Counsel submitted that the impugned orders are liable to be canceled on the sole ground that the principles of natural justice have not been followed and the act of the respondents is arbitrary and in violation of Article 14 of the Constitution of India. The learned Counsel referred to the observations of the Hon'ble Supreme Court in paragraph 9 of the cited judgment.

12. Leaned Counsel also relied upon the judgment of the Hon'ble Apex Court in case of **Rajesh Kumar Verma V/s.**

State of M.P. [1995 (2) SCC 129] and submitted that the Hon'ble Supreme Court has consistently held that the State Government is empowered to relax the requirement of minimum qualifying marks to ensure that the candidates belonging to SC, ST, OBC categories secure admission to professional courses. The learned Counsel submitted that same principle would apply in so far as the employment to the candidates belonging to the backward class is concerned. The learned Counsel submitted that the order of cancellation of the appointment being patently illegal deserves to be set aside and the applicants need to be reinstated in the service with all consequential benefits.

13. The submissions made on behalf of the applicants are opposed by the learned P.O. The respondents have filed the affidavit in reply contending that the applicants since have secured less than 45% marks in the written examination were not eligible for their appointments on the subject post. It is further contended that when in the advertisement itself said condition was expressly mentioned, the applicants must be held to have knowledge of the said condition, and as such, they are now estopped from raising any objection for the said clause. The learned P.O. further submitted that at the relevant time though the applicants were called

for the verification of the documents and thereafter though the appointment orders came to be issued, the fact remains that the applicants are not eligible for their appointment. The learned P.O. submitted that *per se* illegal appointment cannot be ratified because of some mistake by the officers of the respondents. Learned P.O. further submitted that the candidates not fulfilling the eligibility criteria cannot claim any right over the subject post. The learned P.O. further submitted that after issuance of the appointment orders in favour of the applicants, when the documents were re-scrutinized, it was noticed that the applicants were not qualified for their appointment for want of requisite marks in the written examination. The learned P.O. submitted that when the appointments of applicants were *ex facie* illegal there was no requirement of issuing any notice to the applicants before cancellation of their appointments. The learned P.O. submitted that the illegality occurred because of the mistakes committed by the concerned officers of the respondents cannot be allowed to be perpetuated. Learned P.O. in the circumstances prayed for rejecting the O.As.

14. We have carefully considered the submissions advanced by the learned Counsel appearing for the

applicants and the learned P.O. representing the respondents. It is not in dispute that in the advertisement published on 21-02-2019 in clause 8(1) thereof it was mentioned that the selection of the candidates will be made strictly in order of merit on the basis of marks secured by the candidates. It is also not in dispute that clause 8(2) prescribes that candidate has to secure minimum 45% of marks and while preparing select list only such candidates securing more than 45% marks will be included in the said list. It is further not in dispute that in the written examination held, both the applicants had received less than 45% marks. When out of 200, minimum 90 marks were required to be secured for to be eligible to participate in the further process of selection, applicant Amit Gaikwad had received 84 marks whereas another applicant Yuvraj Pawar had received 86 marks. The result of the written examination was published on the Mahapariksha Portal and also on the website of the Health Department. In the result so published, the marks as were received by the applicants were reflected. Thus, it was well within the knowledge of the respondents that both the applicants had received less than 45% marks. In spite of that the applicants were called upon to remain present for

counseling and were directed to bring alongwith them the relevant original documents for the purpose of verification. It is further not in dispute that accordingly both the applicants remained present for counseling and their documents were duly verified by the respondents. Such counseling and verification was done on 27-10-2021. After verification the appointment orders were issued in favour of the applicants on the same day requiring the applicants to resume at their place of posting within 15 days. It is further not in dispute that the order of posting was subsequently issued and the applicants in pursuance of the said orders joined their duties at the respective places. The respondents have also not disputed the fact as has been stated by the applicants in their applications that for joining on the subject post, the applicants relinquished their jobs in Zilla Parishad Nashik by submitting their resignations. The respondents have also not disputed the objection raised by the applicants that before canceling their appointments, no opportunity of hearing was given to the applicants.

15. Dr. Sunita Vijay Golhait, Deputy Director of Health Services (Nursing), Mumbai has filed affidavit in reply in the present matters on behalf of respondent nos.1 and 2. In

paragraph 5 of the said affidavit in reply it is stated thus
(p.b.p.77-78 of O.A.No.793/21):

“5.
I further submit that after the issuing appointment order department once again started verification of the documents of the applicant and scrutinized the same. I submit that during the scrutiny it was observed that applicant has scored below the cutoff mark i.e. applicant scored 84 (42% marks) instead of 90 marks (45%). Therefore the movement department came to know the fact that applicants scored less than cutoff, department immediately informed the applicant vide letter dated 06.12.2021 along with the specific reason mentioned there in.

The respondent humbly submit that the action of the respondent is neither intentional nor deliberate or with view to harass the applicant. It was just an oversight which was further rectified immediately. Therefore, considering the procedure and conditions laid down in advertisement, the office of respondents has decided to rectify the mistake and taken corrective steps by issuing impugned order dated 06.12.2021 which is legal and proper according to the provision of law.”

[Reproduced ad-verbatim from p.b.p.77-78 of O.A.No.793/21]

16. In the affidavit in reply the respondents have not mentioned as to verification of which documents was conducted by them. Had it been the case that the documents in regard to the caste certificate of the applicants, caste validity certificate and documents in regard to age and educational qualifications would have

been re-verified and had it been found that at the time of verification of the documents prior to issuance of the appointments, the applicants had produced some different documents than were found in the re-verification and on that count the appointments of the applicants had cancelled, perhaps, there may not be any case for applicants.

17. Further averments in the affidavit in reply lead to an inference as if at the time of securing appointments the applicants have produced some bogus record showing that they have secured more than 45% marks, and subsequently, the said manipulation was noticed by the respondents. However, no such case has been pleaded by the respondents nor any such document is on record on the basis of which such inference could have been drawn. The mark list was available with the respondents duly showing the marks received by both the applicants which were admittedly less than 45%. There was specific term incorporated in the advertisement that the names of such candidates only will be included in the list of merit who would secure 45% marks or more in the written examination. In spite of that names of applicants were included in the merit list. In preparation of merit list, there

was no role of the applicants. The fact which was within the knowledge of the respondents since beginning cannot be accepted to have been surfaced in the re-verification. Further, in no case it can be accepted that such a mistake would have occurred through oversight.

18. We are constrained to observe that the respondents have not come out with a true defence. Having regard to documents on record there is reason to believe that it was not the oversight but a conscious decision taken by the respondent authorities to consider even the candidates securing less marks than 45%, for giving them appointment for certain reasons. In the peculiar circumstances prevailing at that time, the decision seems to have been taken to consider the candidates who have secured marginally less marks than the cut-off marks since at the relevant time, more particularly, in Covid situation, the respondents were in need of staff nurses and there were orders from the Tribunal also for prompt recruitment of the staff in medical colleges and hospitals.

19. In paragraph 5 of the affidavit in reply filed by the respondents, it has been contended that in O.A.No.1133/2018, the Principal Bench of this Tribunal

had passed the order on 22-10-2021 directing respondents to fill up the vacant posts urgently. It is further contended that in view of the aforesaid order and having regard to the outbreak of Covid-19 pandemic, the process for filling the vacant posts was speedily completed.

20. In the O.A., the applicants have specifically pleaded that there are more 4 candidates other than the applicants who had received less marks than 45% and their names are also included in the select list. This fact has not been denied or disputed by the respondents. We have also perused the select list. There is substance in the contention raised in the O.A. as above. On the contrary, we have noticed that including the applicants, there are 8 candidates included in the list of selected candidates who have received less than 45% marks. Thus, in the select list of 18 candidates, about 50% of them had not received minimum qualifying marks. It is further significant to note that all these 8 candidates are coming from backward class.

21. The question arises, to rectify the mistakes occurred, whether cancellation of the appointments of the applicants who have no role in commission of the said mistake was the

only solution or was there any other way out ? The learned Counsel for the applicants has cited the judgment of the Hon'ble Apex Court in case of **Rajesh Kumar Verma V/s. State of M.P. [(1995) 2 SCC 129]**. In the aforesaid case, the question for consideration before the Hon'ble Apex Court was whether the minimum qualifying marks can be relaxed by the Government in cases of SC & ST candidates specifically when eligible candidates to the extent of reservation are not available for admissions in the medical colleges. In the said matter, the facts were that out of 87 seats available for SC candidates only 40 students qualified for admission whereas for the ST category out of 87 seats available only 30 qualified for admission under the then existing rules. The result was that out of 174 seats reserved for SC, ST candidates only 70 could be utilized leaving 94 unutilized. Ordinarily, these unutilized seats would have gone to the general category, however, the State Government intervened and reduced the minimum qualifying marks in English subject for SC at 15% and for ST for 10%. On this reduced percentage of qualifying marks in the General English, additional SC & ST candidates were offered admission on the unutilized reserved seats. Relaxation so given by the State

Government was questioned in group of Writ Petitions filed before the Division Bench of the Hon'ble M.P. High Court, the Hon'ble High Court came to the conclusion that it was not open to the State Government to reduce the minimum qualifying marks in General English and seats made available to the SC, ST candidates by virtue of the said relaxation would revert to the general category students. The Hon'ble Apex Court while setting aside the said judgment held that the State Government is empowered to relax the requirement of minimum qualifying marks to ensure that the candidates belonging to SC, ST and OBC category secure admission to professional courses.

22. We have carefully perused the advertisement in the present matter. The criteria to secure 45% marks in the written examination for to be eligible for the appointment on the subject post has been prescribed for all the candidates and no relaxation is provided for the candidates belonging to backward classes. Ordinarily qualifying marks are differently prescribed for the candidates coming from Open class and the candidates belonging to reserved class.

23. In the instant selection process in so far as the requirement of minimum qualifying marks is concerned, no

relaxation was provided for the backward class candidates. In the circumstances, candidates like the applicants who have received 42% and 43% marks, respectively, i.e. 2% and 3% less marks than the minimum qualifying marks, are subsequently held ineligible by the respondents. In the matter before the Hon'ble Apex Court cited supra, the requirement of minimum qualifying marks was relaxed by the State Government to ensure that the required number of candidates belonging to SC, ST and OBC category get admission to the professional courses.

24. We sincerely feel that for ensuring representation of the backward class candidates in the recruitment on the post advertised vide advertisement dated 21-02-2019, the State may in its power relax the requirement of minimum qualifying marks for the candidates belonging to backward class. When for Open class candidates, the cut-off marks are prescribed as 45%, the cut-off marks for the backward class candidates can be prescribed 5% less than prescribed for the Open class candidates. If the said relaxation is provided, these candidates can be accommodated and may not lose their jobs without any fault on their part.

25. As we have noted hereinabove, for securing the present appointments both the applicants have

relinquished their earlier jobs with Zilla Parishad, Nashik. The said fact can be another weighing circumstance for considering the case of the present applicants. Having regard to the fact that the Health Department of the State is in urgent need of the nursing staff in the medical colleges and hospitals and no number of adequate candidates are being selected though the efforts are made for their recruitment, there may not be any impediment for the State to take a conscious decision of relaxing condition of minimum qualifying marks so that the Health Department may get adequate staff and in the said staff adequate representation to the backward class candidates.

26. It has been argued by the learned CPO that illegal appointments are always illegal. In answer to the submissions as aforesaid made by the learned CPO, the learned Counsel for the applicants has cited the judgment of the Hon'ble Supreme Court in the case of **Vikas Pratap Singh & Ors. V/s. State of Chhattisgarh & Ors. [(2013) 14 SCC 494]**. In the said matter appointments made on the posts of Subedars, Platoon Commanders and Sub-Inspectors were cancelled on complaints received in respect of defects/mistakes in several questions of the main examination papers. The candidates whose appointments

were cancelled had approached the Hon'ble High Court, however, Division Bench rejected their Writ Petition and the matter was thereafter taken to the Hon'ble Apex Court. The Hon'ble Apex Court set aside the order passed by the Division Bench of the Hon'ble High Court of Chhattisgarh observing that "*error committed by respondent-board in the matter of evaluation of the answer scripts could not be attributed to the appellants as they have neither been found to have committed any fraud or misrepresentation in being appointed qua the first merit list, nor has the preparation of the erroneous model answer key or the specious result contributed to them.*" The observations made by the Hon'ble Apex Court in paragraph 20 of the said judgment are quite relevant. We deem it appropriate to reproduce the entire said paragraph hereinbelow, which reads thus:

*"20. The pristine maxim of *fraus et jus nunquam cohabitant* (fraud and justice never dwell together) has never lost its temper over the centuries and it continues to dwell in spirit and body of service law jurisprudence. It is settled law that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or malafide. (See: *District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and another v. M. Tripura Sundari Devi*, (1990) 3 SCC 655, *P. Chengalvaraya Naidu v. Jagannath and others*, (1994) 1 SCC 1 and *Union of India and others v. M. Bhaskaran*, 1995 Suppl. (4) SCC 100). It is also settled law that a person*

appointed erroneously on a post must not reap the benefits of wrongful appointment jeopardizing the interests of the meritorious and worthy candidates. However, in cases where a wrongful or irregular appointment is made without any mistake on the part of the appointee and upon discovery of such error or irregularity the appointee is terminated, this Court has taken a sympathetic view in the light of various factors including bonafide of the candidate in such appointment and length of service of the candidate after such appointment (See: Vinodan T. and Ors. v. University of Calicut and Ors.,(2002) 4 SCC 726; State of U.P. v. Neeraj Awasthi and Ors. (2006) 1 SCC 667) : [2006 (1) SLR 774 (SC)].”

27. In the instant case, if at all, any error has been committed, it is not by the applicants but by the respondents in the matter of allowing the applicants as well as six other candidates to participate in the further selection process inspite of the fact that none of them had received the minimum qualifying marks. However, in the error so committed by the respondents, undisputedly, there is no role of the applicants. It is also not the case of the respondents that the applicants have obtained the appointments by fraud, mischief, misrepresentation or *mala fide*. It is further not in dispute that, to join the present postings, both the applicants have relinquished their earlier job with Zilla Parishad, Nashik by submitting their resignations for the said posts. In view of the fact that without any fault on their part, the applicants are now subjected to suffer the consequences, and as the

cancellation of their appointments would severely affect their economic security, we feel that the dispute in the present matter has to be viewed differently. In the circumstances, as has been held by the Hon'ble Apex Court in the case of **Vikas Pratap Singh and Ors.** cited *supra*, it would be highly unjust and grossly unfair to cancel the appointments of the applicants who are the innocent appointees. No doubt, in the case of **Vikas Pratap Singh and Ors.** the length of service rendered by the employees who were party in the said dispute was one of the weighing factors along with the fact that in getting such wrongful or irregular appointment, there were no allegations against the said employees that they have played any fraud, mischief or misrepresentation. In the instant matter, we reiterate that there are no allegations against the present applicants of having committed any fraud or misrepresentation or mala fide. In the present matter, according to us, weighing factor to consider the cases of the present applicants would be the fact that both of them have relinquished their earlier job with Zilla Parishad, Nashik in order to join the present posting.

28. Secondly, the applicants belong to backward class and the other six candidates who also have been included

in the list of selected candidates though have not received qualifying marks, are also from the backward class. As such, in our opinion, having regard to the observations made and the findings recorded by the Hon'ble Apex Court in the case of **Rajesh Kumar Verma V/s. State of M.P. [1995 (2) SCC 129]** cited *supra*, the State government may exercise its powers to relax the criteria of minimum qualifying marks in so far as the candidates belonging to backward class are concerned, so that the appointments of the present applicants as well as few others can be saved.

29. Even otherwise, it was difficult to sustain the impugned order since it was passed in utter disregard of the principles of natural justice. The learned Counsel for the applicants has relied upon the judgment of the Hon'ble Apex Court in the case of **Basudeo Tiwary V/s. Sidokanhu University [1998 (8) SCC 194]**. Observations made in paragraph of the said judgment are relevant in this context, which read thus:

“(9) The law is settled that non-arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. It has come to be established, as a further corollary, that the audi alteram partem facet of natural justice is also a requirement of Article 14, for natural justice is the antithesis of arbitrariness. In the sphere of public employment, it is well settled that any action taken by the employer against an employee must

be fair, just and reasonable which are the components of fair treatment. The conferment of absolute power to terminate the services of an employee is an antithesis to fair, just and reasonable treatment. This aspect was exhaustively considered by a Constitution Bench of this Court in Delhi Transport Corporation vs. D.T.C. Mazdoor Congress.”

30. In the instant matter, undisputedly, before cancellation of the appointments of the applicants respondents have not issued any notice to the applicants. No explanation is given by the respondents as to why an opportunity of hearing was not given to the applicants before taking a drastic step of cancellation of their appointments.

31. For the reasons stated above, the orders of cancellation of appointments of the present applicants have to be held unsustainable and deserve to be set aside. We accordingly set aside the same and direct the State Government to favorably and sympathetically reconsider the cases of the present two applicants as well as similarly situated other candidates in light of the observations made by us in the present order and take a decision in light of the judgment delivered by the Hon'ble Apex Court in the case of **Rajesh Kumar Verma V/s. State of M.P. [1995 (2) SCC 129]** to suitably relax the criteria of the minimum qualifying marks to ensure that the employment of the

present applicants is protected. All such exercise has to be completed by the respondents within eight weeks from the date of this order. It is clarified that in the event of reappointments of the applicants and other similarly situated candidates, if any, the same shall for all instances and purposes be fresh appointments, which would not entitle the applicants/appointees to any back wages, seniority or any other benefits based on their earlier appointments.

32. In the result, the following order is passed.

ORDER

(i) The order dated 06-12-2021 whereby the respondents have cancelled the appointments of the applicants is quashed and set aside.

(ii) Respondents are directed to reconsider their decision having regard to the observations made in the body of the present order, within 8 weeks from the date of this order.

(iii) There shall be no order as to costs.

(BIJAY KUMAR)
MEMBER (A)

(JUSTICE P.R. BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : 6th May, 2022