

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 241 of 2017 (D.B.)**

Smt. Shantabai Laxman Doiphode,  
Aged about 24 years, adult,  
Indian inhabitant, residing at C/o Bhushan Thaore,  
P.No.522, Gokulpeth, Nagpur-10.

**Applicants.**

**Versus**

- 1) The State of Maharashtra,  
through Principal Secretary  
Industries & Labour Department,  
Mantralaya, Mumbai-400 032.
- 2) The Director,  
Printing & Stationary,  
Netaji Subhash Marg, Charni Road,  
Mumbai-400 004.
- 3) The Manager,  
Government Press (Jail Press),  
Wardha Road, Nagpur.
- 4) Shri Ajay Vidyadhar Yeole,  
Adult, Assistant Binder,  
to Manager, Government Press Nagpur  
(Notice to be served through the respondent no.3).

**Respondents.**

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**Bharat Kulkarni, Advocate for the applicant.**

**Shri A.P. Potnis, learned P.O. for respondent nos. 1 to 3.**

**None for respondent no.4.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J) and  
Hon'ble Shri Shree Bhagwan, Member(A).**

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**JUDGMENT****PER : V.C.(J)****(Delivered on this 27<sup>th</sup> day of April,2018)**

Heard Shri Bharat Kulkarni, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for respondent nos. 1 to 3. None for respondent no.4.

2. The applicant has requested for direction to respondent no.2, the Director of Printing & Stationary, Mumbai to consider her case for selection and appointment to the post of Binding Auxiliary through open woman category on the similar lines as Smt. Priya Naresh Gajbhiye came to be appointed from the open female category. The applicant also prayed that the selection of respondent no.4, Mr. Ajay V. Yeole on the post of open female of Binding Auxiliary be quashed and set aside. She is claiming that entire process of selection carried out by respondent no.2 for the post of Binding Auxiliary be quashed and set aside.

3. The respondent no.2 issued an advertisement for appointment of Binding Auxiliary in the pay band of Rs.5200-20200 with grade pay of Rs.1800. The applicant applied in response to the said advertisement. The Written test / Vocational/ Professional/ Practical test were conducted. The applicant got 51 marks and in all 17 candidates were shortlisted. It is the case of the applicant that there were 3 open posts, out of which 2 posts were reserved for open female and 1 post was for Ex-serviceman and one each post for

SBC, NT(D), NT(B) and ST category. Out of 17 candidates, 3 female candidates were called for documents verification. The final selection list was published on 24/03/2017 and to the surprise of the applicant only one female candidate Smt. Priya Naresh Gajbhiye was selected and appointed from open female category. The respondent no.4, Shri Ajay V. Yeole selected against open female category though he is a male. It is stated that though the applicant secured cut off marks and was shortlisted for documents verification, she has not been selected and therefore this O.A.

4. The respondents have filed their reply-affidavit. It is stated that as per advertisement 10 posts of Binding Auxiliary were to be filled from various categories. Out of 10 posts, 2 posts were reserved for open woman category. The applicant had applied for the post of Binding Auxiliary in reserved category of NT (D). She has not applied for open woman category. One Priya N. Gajbhiye who applied for open female category, she was selected from the said category. No woman candidate was available from the open female category and therefore in view of the directions in G.R. dated 25/05/2001 (Annex-A-7) the post of open female category was granted to Shri Ajay V. Yeole (R/4) on merits and there is nothing wrong. The applicant files rejoinder reiterating his case. It is stated that the condition of conversion of open female post to general

category was not as mentioned in the G.R. dated 25/05/2001 was not incorporated in the advertisement.

5. It is admitted fact from the record that the applicant has applied for the category of NT (D) and not for open female category. The applicant therefore cannot claim appointment under open female category. The learned P.O. has invited out attention to clause no.7 of the G.R. dated 25/05/2001 (Annex-A-7) at P.B. page no. 46. In clause no.7 it has been stated clearly as under :-

~¼7½ Hkjr rP; k o"kkR R; k R; k i dxkR hy efgyk menokj mi yC/k >KY; k ukghr rj l nj  
vkj{k.k brj= vnykcny u djrk R; k R; k i dxkR hy i # "k menokjkekQR Hkj.; kr  
; kos\*

6. The aforesaid clause clearly states that if no female candidate is found eligible from open female category, the same shall be filled in through male. Out of 2 reserved posts for open female category, only one was found eligible and therefore the person having merits from male category was considered.

7. The learned counsel for the applicant has placed reliance on the Judgment delivered on 22/03/2018 by the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur in **C.A. (CAO) No.494/2018 in MCA (Review) (Stamp) No.38/2018 in Writ Petition No.1930/2014 in the case of the Maharashtra Public Service Commission Vs. Dr. Sadhana Sharadchandra Tidke & Ors.,** wherein it has been held that the reserved category candidates would be entitled to compete against open category posts. There cannot be

any dispute about this. In the present case the applicant is not contesting from open category. She has specifically contested for NT (D) category and not from open female category. The open female in itself is a different category and as per the G.R., if the competent candidate from open female category is not available, the same can be filled from male category also. We, therefore, do not find any merits in the claim of the applicant. It seems from the select list that the respondent no.4, Shri Ajay V. Yeole has secured 68 marks and he stands at sr.no.3 in order of merit. Admittedly selected candidate from open female Priya N. Gajbhiye also got more marks than the applicant, i.e., 68 marks and therefore the applicant cannot compete, either Priya N. Gajbhiye or Ajay V. Yeole and therefore the respondents have rightly converted the open female post for the male since no suitable candidate was available from open female category.

8. From the aforesaid observation, it is clear that the case reported in **Kanchan Vishwanath Jagtap V/s Maharashtra Administrative Tribunal, Nagpur and others reported in 2016 (1) Mh.L.J. 934**, is regarding non-compartmentalized reservation and, therefore, this case will not be applicable in the present set of facts. In the present case, reservations are provided for different categories. The horizontal reservation was also provided for women category, which in itself, is an independent category and, therefore, the candidates from one category for which horizontal reservation is

provided, cannot be considered for selection against the posts reserved for any other horizontal reservation.

9. We, therefore, do not find any merit in the O.A. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(Shree Bhagwan)  
Member(A).**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

**Dated :- 27/04/2018.**

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