

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 32/2016 (D.B.)**

Ms. Swati Vijay Nandagawali @  
Mrs. Swati RavindraJangade,  
Age about 29 years and resident of  
Jambhli – Sadak, Post Sakoli,  
Taluka-Sakoli, District - Bhandara.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Revenue and Forest,  
Madama Cama Marg, Hutatama Rajguru Square,  
Secretariat, Bombay-400 032.
  
- 2) Deputy Conservator of Forest  
and Member Secretary,  
Regional Selection Committee,  
C/o Deputy Conservator of Forest,  
Gondia Forest Division,  
Jaistambh Square,  
Gondia-441 601.

**Respondents**

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**ShriV.M.Lute, Id. Advocate for the applicant.**

**ShriS.A.Sainis, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &  
Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

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**JUDGMENT**

**(Per:-Shri Justice M.G.Giratkar)  
14<sup>th</sup>Feb., 2023.**

Heard ShriV.M.Lute, learned counsel for the applicant and ShriS.A.Sainis, learned P.O. for the respondents.

2. The case of the applicant in short is as under. The applicant belongs to S.C. Category. Applicant is honoured with highest sports award i.e. Shiv Chhatrapati Award – AttiUcchKheladu. Respondents issued an advertisement for filling 81 posts of Forest Guard. One post was reserved from excellent sports person Scheduled Caste Category- (AttiUcchKheladu).

3. On 11.08.2015, applicant applied for the post of Forest Guard from Scheduled Caste Category - (AttiUcchKheladu). Respondents published the list of selected candidates under each sub category. The applicant has completed running test of 3 K.M. in 16:45 minutes. However, though she was alone in AttiUcchKheladu she was not called for subsequent physical test that were conducted by them. On

04.12.2015, after publication of list, applicant came to know that her name is not included in the list of successful candidates; therefore, she immediately submitted representation. On the same date respondent no. 2 issued public notice that due to some technical reason incorrect list is published which is cancelled and, therefore, list would be published finally on 05.12.2015 on website.

4. On 11.12.2015, respondents published the list of successful candidates who have completed 5/3 k.m. running test within time. The applicant was not called for further examination process only on the ground that other candidates have completed running test less than the time completed by the applicant. Hence, the applicant approached to the Tribunal for the following relief:-

*"1. Call for records of selection process of forest guard undertaken by respondent no. 2 in pursuant to advertisement no. Sec-5/Admin-1/STPF/forest guard - recruit/2154, dated 03.08.2015 from "AttiUcchaKheladu" SC-Category.*

*2. Quash and set-aside the selection process initiated and conducted by respondents with regard to appointment of 81 forest guards in pursuant to advertisement no. Sec-5/Admin-1/STPF/forest guard- guard-recruit/2154 dated 03.08.2015.*

*Or in the alternative*

*Quash and set-aside the selection process of forest guard from SC AttiUcchaKheladu category initiated and from conducted by respondents with regard to appointment of forest guard in pursuant to advertisement no Sec-5/Admin-1/STPF/forest guard-recruit/2154 dated 03.08.2015.*

*3. After quashing and setting aside the selection process, direct the respondents to initiate the process afresh for SC AttiUcchaKheladu category from the stage of screening of candidates onwards within time bound period.*

5. The respondents have filed reply and in paras 6 & 7 it is mentioned that other candidates have completed running test less than the time consumed by the applicant. Paras 6 & 7 of the reply is reproduced as under:-

*"6. It is submitted here that, the Respondent No.2 thereafter published the corrected list of candidates on 11.12.2015. It is pertinent to note here that in the above list of candidates dt.11.12.2015, the names of Ku. TruptiDevraoji Vaidya and Ku. Swati d/o MangalMasarkar were included in the list of open Female category at serial no.11 and 12 as they had completed 3k.m. run in 12minutes 32seconds 7microseconds and*

*12minutes 34seconds 32micro seconds respectively, where as applicant has completed 3k.m. run in 16.45minutes taking comparatively more time than the above two candidates.*

*7. It is pertinent to note that Ku. TruptiDevraoji Vaidya and Ku. Swati MangalMasarkar belong to O.B.C. and S.C. categories respectively and they are also holding requisite sports certificate of State Level and as such they are successful in the preliminary round of physical test of 3 k.m. run and so also 16 k.m. walk for the post Forest Guard in Female Sports category. As such, both above candidates qualified for the second round.”*

6. Ld. P.O. has pointed out judgment in the case of **Ranjan Kumar &Ors. Vs. State of Bihar and Ors. (2014) 16 SCC 187**. Hon’ble Supreme Court has held that once the candidate participated in the selection process and when they found unsuccessful they cannot challenged the same. The cited judgment is not applicable because the applicant cannot be said to be unsuccessful because as per the advertisement she has to complete 3 k.m. running test within 30 minutes. There is no dispute that she has completed running test within 16.45 minutes. The post reserved for AttiUcchKheladu in Scheduled Caste Category is still vacant. Nobody is posted in this category.

7. The applicant is the only candidate but she is not called for further process i.e. physical examination etc only on the ground that other two candidates completed 3 minutes running test less than the time consumed by the applicant. These criteria cannot be said to be legal because in the advertisement itself AttiUcchKheladu running test is to be completed within 30 minutes. The applicant has completed it near about in half time i.e. 16.45 minutes. The applicant has completed criteria mentioned in the advertisement. Hence, the action of the respondents not calling her for further examination appears is not proper. Therefore, we pass the following order:-

### **O R D E R**

- A. The original application is allowed.
- B. The respondents are directed to take further test of applicant as per their further procedure and appoint her as per prescribed rules if she is otherwise eligible for the post of Forest Guard reserved for Scheduled Caste Category (AttiUcchKheladu).
- C. No order as to costs.

**(M.G.Giratkar)**  
**Vice Chairman**

**(Shree Bhagwan)**  
**Vice Chairman**

aps

Dated – 14/02/2023

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : AkhileshParasnath Srivastava.

Court Name : CourtofHon'bleViceChairman  
&Hon'bleVice Chairman.

Judgment signed : 14/02/2023.

on and pronounced on

Uploaded on : 15/02/2023.