

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 647/2019 (D.B.)**

Arjun s/o Maruti Gore,  
Aged 48 Yrs. Occupation service,  
R/o c/o Directorate of Sericulture,  
New Administrative Building No. 2,  
Nagpur, District Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Co-operation,  
Marketing & Textile,  
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,  
Through its Secretary,  
General Administration Department,  
Mantralaya, Mumbai-32.
- 3) The Maharashtra Public Service Commission,  
through its Secretary,  
5, 7 & 8 Floor, Kupraj Building,  
Maharshi Karve Marg, Kupraj  
Mumbai-21.
- 4) Shri Dilip S/o Ashruji Hake,  
Aged about 55 yrs., Occu. Service,  
R/o c/o Office of Directorate of Sericulture,  
Administrative Building,  
Civil Lines, Nagpur.

**Respondents**

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Shri A.P.Tathod, ld. counsel for the applicant.  
Shri A.M.Ghogre, ld. P.O. for the respondents.  
Shri R.M.Fating, ld. Counsel for the respondent no. 4.

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

**Dated: - 17<sup>th</sup> June 2022.**

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**JUDGMENT**

**Per : Member (J).**

**Judgment is reserved on 13<sup>th</sup> June, 2022.**

**Judgment is pronounced on 17<sup>th</sup> June, 2022.**

Heard Shri A.P.Tathod, learned counsel for the applicant, Shri A.M.Ghogre, learned P.O. for the Respondent nos. 1 to 3 and Shri R.M.Fating, learned counsel for the respondent no. 4.

2. Facts leading to this application are as, follows. In response to advertisement dated 20.01.2012 (A-1) issued by respondent no. 3 the applicant, being eligible, applied for the post of Deputy Director (Sericulture) vide A-4, along with necessary documents including experience certificates. After interviews respondent no. 3, by communication dated 21.06.2012 (A-7) recommended his name for the post. Respondent no. 4 challenged the recommendation dated 21.06.2012 by filing O.A. No. 692/2012 (A-8). Respondent no. 1 appointed the applicant to the post by order dated 09.10.2012 (A-9). He joined on the post on 13.06.2013 (A-10). By order dated 28.04.2016 (A-15) this Tribunal allowed O.A. No. 692/2012, quashed and set aside order dated 09.10.2012 appointing

the applicant herein to the post of Deputy Director (Sericulture), and directed M.P.S.C. to appoint the applicant therein (who is R-4 in this application) to the aforesaid post. Present applicant challenged the order of this Tribunal in Writ Petition No. 5025/2016. The Hon'ble High Court, by order dated 20.09.2017 (A-17) quashed and set aside the order of this Tribunal and directed as follows:-

*“11. The M.P.S.C. or any such authority competent to verify the documents on behalf of respondent nos. 1 and 2 shall verify the documents of the petitioner and the respondent no. 3 herein and take decision afresh with regard to the selection for the post of Deputy Director (Sericulture) as per the advertisement in question. The said decision be taken expeditiously and preferably within two months.”*

Additional Chief Secretary (Textile) was asked by respondent no. 1 to conduct verification of documents as per order dated 20.09.2017. The applicant appeared before the said authority with necessary documents. The applicant raised grievances (A-20) and (A-21) before the concerned Minister and respondent no. 3, respectively as follows:-

‘मा. अपर मुख्य सचिव (वस्त्रोद्योग), सहकार, पणन व वस्त्रोद्योग विभाग, मुंबई यांनी दिनांक १३.१२.२०१७ रोजी माझे कागदपत्रांची पडताळणी केलेली आहे. परंतु, मा. उच्च न्यायालयाचे आदेशान्वये सक्षम प्राधिकारी जसे महाराष्ट्र लोकसेवा

आयोग, शासनाचा विधी व न्याय विभाग, सामान्य प्रशासन विभाग अथवा त्यांचा सहभाग असलेले सक्षम प्राधिकारी ठरवूनच या अंतर्गत निर्णय घेणे अपेक्षित असताना तशी कार्यवाही झालेली नाही. त्यामुळे माझेवर अन्याय होणेची शक्यता आहे. कृपया याबाबत खात्री करून आयोगाच्या स्तरावर उचित कार्यवाही होणेस नम्र विनंती आहे.’

On 13.12.2017 Additional Chief Secretary (Textile)

conducted hearing and held :-

“या प्रकरणामध्ये मूळ मुद्दा श्री.अर्जुन गोरे यांनी दिलेले अनुभवाच्या प्रमाणपत्राविषयी आहे. मा. MAT यांनी त्यांच्या निर्णयामध्ये स्पष्ट केले आहे की, श्री. गोरे यांनी सादर केलेले अनुभवाचे प्रमाणपत्र Competent Authority यांच्याकडून जारी केलेले नव्हते. तसेच त्यांनी वरीलप्रमाणे श्री. गोरे यांची निवड रद्द केली होती.

एम.पी.एस.सी. यांनी दिलेल्या जाहिरातीप्रमाणे अर्जदार यांना किमान तीन वर्षांचा तांत्रिक अनुभव तसेच शासकीय विभाग किंवा शासनाचे महामंडळ इत्यादीमध्ये जबाबदारीच्या पदावरील प्रशासकीय कामाचा ५ वर्षांचा अनुभव असे लिहिलेले आहे.

जेव्हा आम्ही प्रशासकीय काम म्हणतो त्याच्यात मुलतः निम्नबाबी होणे आवश्यक आहेत :

- १) प्रशासकीय/नागरी नियम शर्ती यांचे अनुपालन,
- २) वेतन नियमाचे पालन,
- ३) वर्तणूक, शिस्त व अपील

वरील सर्व बाबींचा अंतर्भूत सर्वसाधारणपणे प्रशासकीय कामात होतो.

एम.पी.एस.सी. ने दिलेल्या जाहिरातीमध्ये फक्त प्रशासकीय नव्हेतर जबाबदारीच्या पदावरील प्रशासकीय कामाचा अनुभव असे लिहीलेल आहे.

याविषयी पृ.कृ.१७/- टि.वि. मध्ये ‘‘अ’’ प्रमाणे संचालक (वस्त्रोद्योग) यांनी स्पष्टपणे नमूद केले आहे की, श्री. गोरे यांनी सादर केलेले अनुभवाची प्रमाणपत्रे ही तांत्रिक काम केले असल्याबाबतची आहेत. तसेच त्यांना जबाबदारीच्या प्रशासकीय कामाचा अनुभव नसल्याने त्यांचे अनुभवाचे प्रमाणपत्र प्रशासकीय अनुभव म्हणून ग्राह्य धरण्यात येऊ नये.

याविषयी मी स्वतः दि.१३.१२.२०१७ रोजी सुनावणी आयोजित केली होती व श्री.गोरे व श्री.हाके तसेच संचालक (वस्त्रोद्योग) आणि प्रादेशिक उपसंचालक (वस्त्रोद्योग), सोलापूर यांचे म्हणणे ऐकून घेतले.

सर्व विवेचन लक्षात घेऊन माझे निदर्शनास आले आहे की,

१. शासकीय अधिकारी/कर्मचारी म्हणून श्री. गोरे यांनी त्यांचा अर्ज विहित मार्गाने (Through proper channel) म्हणजे संचालक (वस्त्रोद्योग) यांच्यामार्फत पाठविणे आवश्यक होता व तसा त्यांनी तो पाठविलेला नाही.
२. श्री. हाके यांनी त्यांचा अर्ज विहित मार्गाने (Through proper channel) पाठविला होता.
३. अनुभवाचे प्रमाणपत्र जारी करण्याचे अधिकार संचालक (वस्त्रोद्योग) यांचेकडे नियुक्ती प्राधिकारी म्हणून होते. सदर प्रमाणपत्र संचालक (वस्त्रोद्योग) यांचेकडून घेणे आवश्यक होते. श्री. गोरे यांनी दिलेले अनुभव प्रमाणपत्र हे संचालक (वस्त्रोद्योग) यांच्याकडून जारी केलेले नाही.

प्रादेशिक उपसंचालक (वस्त्रोद्योग) यांनी माझ्यासमोरील सुनावणीमध्ये स्पष्ट सांगितले आहे की, सहायक वस्त्रोद्योग निरीक्षक हे पद तांत्रिक स्वरूपाचे आहे. परंतू, या पदावर काम करणा-या कर्मचा-याला काही वेळा संस्थांच्या निवडणुका व इतर अतांत्रिक स्वरूपाचे काम सोपविले जाते. तथापि, त्यांच्या मूळ कामाचे स्वरूप हे तांत्रिक स्वरूपाचेच आहे.

वरील सर्व बाबी लक्षात घेऊन मी या निष्कर्षापर्यंत पोहोचलो आहे की, श्री. अर्जुन गोरे यांना आवश्यक तो जबाबदारीच्या पदावरील प्रशासकीय अनुभव त्यांची निवड करतवेळी नव्हता. त्यामुळे त्यांची नियुक्ती अयोग्य पध्दतीने झाली आहे व मा. MAT ने दिलेल्या निर्णयाप्रमाणे त्यांची नियुक्ती रद्द केली पाहिजे व उपसंचालक (रेशीम) म्हणून श्री. हाके यांची निवड केली पाहिजे.”

Respondent no. 3 then passed order dated 08.08.2018

(A-23) to the following effect:-

“उपरोक्त विषयावरील शासन पत्र क्रमांक: न्यायप्र १११६/प्र.क.६८/रेशीम कक्ष. दिनांक ३ मे, २०१८ च्या अनुषंगाने असे कळविण्याचे आदेश आहेत की, संदर्भाधीन न्यायनिर्णय व सदर शासन पत्रात विशद केलेल्या बाबी विचारात घेऊन उपसंचालक (रेशीम), महाराष्ट्र रेशीम सेवा, गट-अ (जाहिरात क्रमांक १८९/२०१२) या पदावर श्री. हाके दिलीप आश्रूजी यांची शिफारस करण्यात येत आहे. तसेच त्यामुळे यापूर्वी आयोगाच्या दिनांक २१ जून, २०१२ च्या शिफारस पत्रानुसार शिफारस करण्यात आलेले श्री. अर्जुन मारुती गोरे यांची शिफारस मागे घेण्यात येत आहे. तरी या बाबत संबंधितांना कृपया अवगत करण्यात यावे. श्री. हाके यांना नियुक्ती देण्यापूर्वी खालीलप्रमाणे कार्यवाही करण्यात यावी, अशी आयोगाची सूचना आहे.

(१) श्री.हाके यांचे गोपनीय अभिलेख न पाहताच आयोगाने त्यांची शिफारस केली आहे. श्री. हाके हे प्रस्तुत पदासाठी अर्ज करतांना शासन कर्मचारी असल्याने त्यांना नियुक्ती देण्यापूर्वी त्यांचे गोपनीय अभिलेख तपासून नंतरच परस्पर शासनाने त्यांच्या नियुक्तीबाबत निर्णय घ्यावा.”

Thereafter, G.R. dated 08.08.2019 (A-25) was issued relieving the applicant from the post of Deputy Director (Sericulture). Hence, this application for following reliefs:-

- i) to hold and declare that the applicant is duly eligible and qualified for the appointment on the post of Deputy Director (sericulture) as he possessed requisite qualification as per recruitment Rules,*
- ii) to quash and set aside the order dated 08.08.2018 issued by the third respondent/ MPSC withdrawing the recommendation of the applicant dated 21.06.2012 without there being any reasons,*
- iii) to quash and set aside the Government resolution/order dated 08.08.2019 issued by the first respondent cancelling the appointment of the applicant as a Deputy Director (sericulture) and appointing the last respondent on the post so advertised being totally illegal and unsustainable in law,*
- iv) to grant any other relief which this Hon'ble Court deems it fit under the facts and circumstances of the case and in the interest of justice."*

3. Reply of respondent no. 1 is at pages 286 – 289. In para no. 3 respondent no. 1 contended:-

*“3. In pursuance to the directions issued by the Hon’ble High Court the Respondents has given the personal hearing and as well as verify the documents of both the candidates before the Additional Chief Secretary Textiles on 13.12.2017. In the said hearing, the Regional Dy. Director (Textile) was also present and he clarified that the post of Assistant Textile Inspector is technical post. The Assistant Textile Inspector has to perform the duty in the technical nature only on the some contingency like the election of the Cooperative Societies, then only the nature of the work is non-technical in nature. In view of this fact the Applicant has not possessive the requisite experience of administrative work as per Recruitment Rules. The answering Respondent further submitted that, the order of cancellation of appointment of the Applicant on the post of Dy. Director Sericulture was passed only after giving personal hearing and verifying the experience documents produced by the Applicant in the above meeting. The order dt. 08.08.2019 is just and proper.”*



4. Reply of respondent no. 3 is at pages 246 to 257. In para no. 38 of said reply respondent no. 3 contended:-

*“The Government is appropriate authority to verify the documents and experiences of the candidates. As per the directions of the Hon’ble High Court given in order dated 20.09.2017 passed in W.P.No.5025/2016 Government being appropriate authority was requested by the Commission to verify the documents, experience of petitioner Shri. Gore and respondent no.4 Shri Hake. Accordingly, after verification of documents and experience of Shri Gore and Shri Hake, the Government has communicated it’s findings regarding their experience vide Government letter dated 03.05.2018. Considering the findings regarding experience communicated by the Government vide letter dated 03.05.2018 the recommendation of Shri Gore was withdrawn and Shri Hake was recommended for the post in question.”*

5. We have already quoted the grounds on which the applicant objected to verification of documents by Additional Chief Secretary (Textile) by making representations to the Hon’ble Minister (A-20) and R-3 (A-21).

6. It may be reiterated that while disposing of Writ Petition No. 5025/2016 the Hon'ble High Court issued directions as follows:-

*“11. The M.P.S.C. or any such authority competent to verify the documents on behalf of respondent nos. 1 and 2 shall verify the documents of the petitioner and the respondent no. 3 herein and take decision afresh with regard to the selection for the post of Deputy Director (Sericulture) as per the advertisement in question. The said decision be taken expeditiously and preferably within two months.”*

Initial portion of these directions states:-

*“The M.P.S.C. or any such authority competent to verify the documents on behalf of respondent nos. 1 & 2.....”*

This portion clearly shows that no specific authority was asked by the Hon'ble High Court to carry out verification.

7. I have referred to relevant contents of reply of respondent nos. 1 to 3. These pleadings show that respondent no. 1, on being requested by respondent no. 3, appointed Additional Chief Secretary (Textile) to verify the documents of present applicant and respondent no. 4 and take decision afresh with regard to the

selection for the post of Deputy Director (Sericulture). There is absolutely no basis to accept the contention of the applicant that verification of documents ought to have been done by someone from Law and Judiciary department or General Administration Department.

8. Respondent no. 4 has placed on record at page 331 findings recorded by Additional Chief Secretary (Textile). These findings have been reproduced hereinabove in toto.

9. In para no. 8 of the Judgment in W.P.No.5025/2016 it was observed:-

*“8. The Tribunal or this Court is not an expert to consider the nature of the experience, the same naturally has to be considered by the committee of experts appointed for the said purpose during the recruitment process.”*

Conjoint consideration of findings recorded by the competent authority i.e. Additional Chief Secretary (Textile) and guidelines issued by the Hon'ble High Court in aforequoted para no. 8 of the Judgment will lead to the conclusion that the findings recorded by the competent authority after giving hearing to rival parties and

considering all relevant circumstances including record do not call for interference.

10. In his Rejoinder at pages 290 to 299 the applicant has contended as follows:-

*“4. The applicant further submits that in view of the order passed by the Hon’ble High Court in W.P.No.5025/2016, the respondent No.1 by its letter dated 24.10.2017 sought the opinion of the Director of sericulture as to whether the experience certificates produced by the applicant as well as the last respondent can be accepted as administrative experiences for the post so advertised and in pursuance thereof the Director of sericulture submitted its report on 08.11.2017 by confirming the fact that both the applicant as well as last respondent has administrative experience and the same needs to be consider for the post so advertised. This report has also not been considered by the first respondent while taking the decision, which is perse illegal. Furthermore the opinion of the General Administration department & Law and Judiciary Department was also sought who specifically informed that the Director of Sericulture is an independent & the competent authority to verify the documents.*

5. *It is further submitted that as per the order of the Hon'ble High Court, the decision has to be taken by the MPSC or any other such authority competent to verify the documents on behalf of the respondent Nos. 1 & 3 and to take fresh decision but admittedly the same has not been done and the Additional Chief Secretary (Textile) conducted a hearing on 13.12.2017 for verification of documents of both the candidates. In this regard it is specifically submitted that the additional Chief Secretary (Textile) is neither to competent authority nor he was authorized by the Government i.e. Hon'ble Minister of Textile department of the concerned department nor by the MPSC. During the course of hearing the Regional Director, Solapur said that the post on which the applicant was serving as an Assistant Textile Inspector is technical and has to perform the duties in the technical nature only but in the written opinion given by him on 03.11.2017 to the Director of Textile, he specifically mentioned that the applicant has experience in administration as well as technical side. Thus deliberately contrary stand has been taken by the said authority. Thus the submission of the respondents 1 & 2 that the applicant do not possessed the experience is totally incorrect and contrary to the record. It is submitted that the authority has not*

*considered the experience of the applicant in respect of the worked done by him as a Power Loom Jobber and Shift Supervisor. A copy of the written opinion of Regional Deputy Director, Solapur is annexed herewith as **Document No. 1** with this rejoinder.*

6. *The contention so raised in para 5 of the affidavit in reply that the impugned order is passed after considering the opinion given by GAD and Law department is also incorrect in as much as the same run contrary to the record. In this regard it is specifically submitted that the GAD as well as Law department has specifically informed that the Director of Sericulture is the independent and competent authority to verify the documents of the candidates and in spite of this, the opinion given by the Director of Sericulture in his letter dated 08.11.2017 in which it is specifically stated that the applicant is having the technical and administrative experience and the same should be taken into consideration but the same has not been considered. Even at the time of hearing the Director of Textile in his written opinion stated that the applicant is having the administrative experience and the same shall be consider for the post but the same has not been considered. A copy of the said opinion is annexed herewith*

as **Document No. 2** with this rejoinder. It is further pertinent to note that the experience certificates and also the opinions of Law & Judiciary department and General administration department of the applicant are never brought to the notice of the respondent No. 3 MPSC.”

Respondent no. 1 entrusted task of verification of documents to Additional Chief Secretary (Textile) who carried out the same. The appointment of said authority was not contrary to direction of the Hon’ble High Court. The Hon’ble High Court did not specify who was to carry out verification of documents. There is absolutely nothing on record to conclude that the Additional Chief Secretary (Textile) did not perform the assigned task properly.

11. In written arguments (at pages 356 to 376) the applicant has contended as follows:-

*“It needs to be considered that in the meeting Regional Deputy Director was present, the Director of Textile was also present. The Regional Deputy Director, Textile, Solapur surprisingly said that the post on which the applicant was serving as an Assistant Textile Inspector is technical and he performed the duties in technical nature but in his written opinion dated 03.11.2017 issued by him to the Director of Textile, Nagpur he specifically*

*stated that the applicant has experience in administration and technical nature. The written opinion of Regional Deputy Director dated 03.11.2017 is already filed by the applicant with his rejoinder which at **Page No. 300** on record. So also the Director of Textile in his opinion stated that the applicant is having experience of administration which is at **Page No. 301** with the Rejoinder but the respondent no. 1 did not at all considered this material and important documents. It is further submitted that the respondent no. 1 has not considered the duties performed by the applicant on the post of Powerloom Jobber and Shift Supervisor, which was considering by respondent no. 3-MPSC at the time of recommendation of applicant.”*

The document at page no. 300 states :-

“श्री ए.एम.गोरे हे दिनांक २४.०४.१९९८ ते ३१.०५.२००७ या कालावधीत सहाय्यक वस्त्रनिर्माण निरीक्षक या पदावर या कार्यालयाच्या आस्थापनेवर कार्यरत होते. सदर कालाधीतमधील कामासंबंधी या कार्यालयाचे पत्र क्र.जा.क्र.पाउसं/आस्था/प्र.प./५७७१/१२ दिनांक २९.१०.२०१२ अन्वये दिनांक २४.०४.१९९८ ते ३१.०५.२००७ या कालावधीत मध्ये त्यांचे पद तांत्रिक स्वरूपाचे होते. तथापि त्यांना तांत्रिक व प्रशासकीय (सहकार) कामकाजाचा अनुभव असल्याचा प्रमाणपत्र दिलेला आहे.

त्यानुसार या कार्यालयातील अभिलेखावरून श्री ए.एम.गोरे हे तांत्रिक कामकाज व प्रशासकीय (सहकार) कामकाजाचा अनुभव होता.”



Relevant portion of the document at page no. 301 is as follows:-

“उपसंचालक रेशिम या पदासाठी आवश्यक असलेली शैक्षणिक अर्हता, तांत्रिक अनुभव श्री गोरे यांना आहे. प्रादेशिक उपसंचालक, वस्त्रोद्योग, सोलापुर, व उपनिबंधक सहकारी संस्था, मालेगाव, यांनी सादर केलेल्या अहवालाचे अवलोकन करता श्री गोरे यांना प्रशासकीय कामाचा अनुभव असल्याबद्दल विचार व्हावा.

उपसंचालक रेशिम या पदासाठी आवश्यक असलेली शैक्षणिक अर्हता, तांत्रिक अनुभव श्री हाके यांना आहे. त्यांचे प्रशासकीय अनुभव पुष्ट्यार्थ मुलाखतीच्या वेळी सादर केलेल्या प्रमाणपत्रांची तपासणी केल्यानंतर श्री हाके यांचा अनुभव उपसंचालक रेशिम या पदासाठी प्रशासकीय अनुभवाबाबत विचार व्हावा.”

From the tenor of the opinions given by the authorities while issuing the same (at page nos. 300 & 301), it can be concluded that the same were tentative and not emphatic. On the other hand, the opinion given by the competent authority which is at pages 331 of the record is elaborate and it deals with all relevant circumstances. Consequently said opinion of the competent authority must be accepted.

12. The applicant has relied on “**Trivedi Himanshu Ghanshyambhai Vs. Ahmedabad Municipal Corporation and Ors. AIR 2008 Supreme Court 148.**”

Facts of this case were as under:-

*“The Municipal Corporation invited applications for the posts of Assistant Manager from amongst the qualified existing employees of the Corporation. An eligible candidate required to be a graduate with second class from any recognized University with ten years of administrative experience. The appellant discharging his duty as X-ray Technician and also regularly and compulsorily, carrying out the clerical and administrative work connected therewith, had applied for appointment in prescribed form. The said form was forwarded through the Medical Officer of the Corporation under whom he was working. The said form was duly scrutinized and after it was found that the appellant was eligible, the same was sent to the Corporation for consideration. The appellant appeared in written test and oral interview and selected for the post. Respondents challenging the appointment of appellant did not raise any objection, by making a prayer, either before the Examination Committee or before the Interview Board.*

In these facts it was held:-

*The respondents cannot be permitted to raise the objection that the appellant could not have been considered for appointment, he being a technical hand without any*

*administrative experience, after the appellant was selected along with the other selected candidates. It was open to them to raise such an objection at the initial stage, either in the written examination or at the time of the oral interview. Such objection was raised, for the first time, after the appellant successfully completed four months in his capacity as an Assistant Manager (his promoted post in the Corporation)."*

In this case exercise of re-verification of documents was undertaken as per directions issued by the Hon'ble High Court in W.P. No. 5025/2016. On the basis of re-verification carried out by the competent authority the impugned orders dated 08.08.2018 – 08.08.2019 were passed setting at naught the earlier recommendation made in favour of the applicant on 21.06.2012. Since, we find that re-verification of documents was carried out in accordance with the directions of the Hon'ble High Court and in a proper, elaborate manner, the application deserves to be dismissed. Hence, the order:-

### **ORDER**

1. Application is dismissed.
2. No order as to costs.

**(M.A.Lovekar)**  
**Member(J)**

aps

Dated – 17/06/2022

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

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

Name of Steno : Akhilesh Parasnath Srivastava.  
Court Name : Court of Hon'ble Member (J) .  
Judgment signed on : 17/06/2022.  
and pronounced on  
Uploaded on : 18/06/2022.