

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 399 OF 2013

DIST.: NANDED

Yasmin Begum Pasha Khan,
 Age: 25 Years, Occu: at present nil,
 R/o Chaitanya Nagar Asra Nagar,
 Nanded, Dist. Nanded-431604.

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APPLICANT

V E R S U S

1. The State of Maharashtra,
 Through its Secretary,
 Home Department,
 Mantralaya, Mumbai-32.
2. Director General of Police,
 Maharashtra State Police Head Quarters,
 Shahid Bhagatsing Marg,
 Colaba, Mumbai.
3. Superintendent of Police,
 SP Office, Vazirabad, Nanded.

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RESPONDENTS

APPEARANCE : Shri M.R. Wagh, learned Advocate holding
 for Shri R.B. Narwade Patil learned
 Advocate for the Applicant.

: Shri S.K. Shirse, Learned Presenting
 Officer for the Respondents.

CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 17.02.2017.

ORDER

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Learned Advocate Shri M.R. Wagh, holding for learned Advocate Shri R.P. Narwade Patil for the Applicant and Shri S.K. Shirse, learned Presenting Officer for the Respondents.

2. The Applicant has filed this O.A. challenging her non-selection for the post of Police Constable in Maharashtra State Police Constable Recruitment 2011 in Nanded District.

3. Learned counsel for the Applicant argued that she had applied for the post of Police Constable for a post reserved horizontally for women from Open category pursuant to the advertisement issued by the Respondent no. 3 on 1.10.2011. The Applicant was allowed to participate in the selection process and scored a total of 126 marks. The Applicant's name was not included in the revised select list published by the Respondent no. 3 on 10.04.2013, though the last selected candidate from Open-female category had

scored only 107 marks. Though the Applicant made representation from time to time, she was not informed the reasons for her non-selection. Learned counsel for the Applicant contended that the claim of the Respondents in the affidavit in reply dated 21.02.2014, that the Applicant was not considered for post horizontally reserved for women from open category as she had not filed Non-Creamy Layer certificate is incorrect. The Applicant had furnished Non-Creamy Layer certificate dated 3.11.2011 to the Respondent no. 3. The last date of filing application was 31.10.2011 and three days delays should not deprive the Applicant from being selected for the post of Police Constable.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant had submitted her application for selection to the post of Police Constable in the Maharashtra State Police Recruitment 2011 for Nanded District. A copy of the same is appended with the affidavit in reply of the Respondent no. 3 dated 21.02.2014 at Page 69-70 of the Paper Book. The Applicant has answered 'no' to the question, whether she belongs to 'Non-Creamy Layer'

(NCL) category. As such, she was considered from Open-general category and not from Open-female category. As the Applicant had not claimed that she belongs to NCL category, there was no question of her submitting NCL certificate. The last date of submission of application as per advertisement was 31.10.2011 and NCL certificate is dated 3.11.2011, which cannot be considered. Learned P.O. argued that there is no merit in this Original Application.

5. We find that the Applicant is claiming in this O.A. that she should have been considered from Open-female category. It is undisputed fact that horizontal reservation for females from open category requires that such candidates should belong to Non-Creamy Layer. The applicant in her application form has clearly stated that she did not belong to NCL category. As such, the decision of the Respondent no. 3 in not considering the Applicant against posts horizontally reserved for women from open category cannot be faulted.

6. The Applicant has claimed that she had submitted NCL certificate dated 3.11.2011 to the Respondent no. 3. On carefully scrutiny of the O.A., we do not find any mention of the fact that the Applicant had produced NCL certificate any time to the Respondent no. 3. The fact that the Applicant had not submitted NCL certificate is mentioned in Para 5 of the affidavit in reply of the Respondent no. 3 dated 21.02.2014. The same is not denied by the Applicant. A copy of NCL certificate dated 3.11.2011 of the Applicant is appended by the Respondent no. 3 with his affidavit in reply. The certificate even if produced, will not help the Applicant, as she had not claimed that she belonged to NCL category in her application form. Also, the certificate is dated after the last date of filing the application form, so it cannot be considered as valid as Paragraph no. 13(1) of the advertisement made it clear that all certificates should be issued before the last date of submitting application form. The NCL certificate of the Applicant is dated 3.11.2011 while the last date for submitting application form was 31.10.2011.

7. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

MEMBER (J)

Kpb/DB OA No 399 of 2013 RA 2017

VICE CHAIRMAN (A)