

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.572 OF 2017**

**DISTRICT : NASIK**

Smt. Shobhana Uttamrao Kadam, )  
Agd 30 years, (DOB : 14.4.1986) Occ. Nil, )  
R/at C/o Mr. Prashant Kale, Flat No.C-304, )  
Tulsi Hari Sankul, Near Tulsi Hospital, )  
Happy Home Colony, Dwarka, Nasik )..Applicant

Versus

1. The State of Maharashtra, )  
Through Secretary, )  
Woman & Child Development Department, )  
Mantralaya, Mumbai 400032 )
2. The Commissioner, )  
Woman & Child Development, )  
Ranicha Baug, Next to Old Circuit House, Pune-1)
3. The Divisional Deputy Commissioner, )  
Woman & Child Development, Nasik Division, )  
Near Nasardi Bridge, Samjik Nyay Sankul, Nasik)
4. Mr. Sagar Rajgir Gosavi, )  
Flat No.81, Survesh Apartment, Near Apollo )  
Hospital, Swami Narayan, New Adgaon Naka, )  
Panchawati, Nasik )..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for Respondents No.1 to 3

Shri M.D. Lonkar – Advocate for Respondent No.4

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
 Shri A.D. Karanjkar, Member (J)  
 RESERVED ON : 17<sup>th</sup> June, 2019  
 PRONOUNCED ON : 19<sup>th</sup> June, 2019  
 PER : Shri P.N. Dixit, Vice-Chairman (A)

### **J U D G M E N T**

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for Respondents No.1 to 3 and Shri M.D. Lonkar, learned Advocate for Respondent No.4.

#### Brief facts:

2. Woman & Child Development, M.S. (Respondent No.2) issued advertisement No.2/2015 for filling up the post of Protection Officer, Junior Group C. The advertisement mentioned that the final selection would be made on the basis of following:

“२. अंतिम निवड

शासन निर्णय सा.प्र.विभाग, प्राणिमं-२००७/प्र.क.४६/०७/१३-अ, दिनांक २७.०६.२००८ अन्वये,

अ) उमेदवारांची अंतिम निवड हि लेखी परिक्षेत मिळालेल्या एकूण गुणांच्या आधारे केली जाईल.

ब) एकाच स्थानासाठी (Position) दोन किंवा अधिक उमेदवारांना समान गुण मिळाल्यास खालील प्राधान्य क्रमाच्या आधारे उमेदवाराची अंतिम निवड केली जाईल.

१) अर्ज सादर करण्याच्या अंतिम दिनांकास उच्च शैक्षणिक अर्हता धारण करणारे उमेदवार.”

(Quoted from page 17 of OA)

3. In response the Applicant filled in the application form and mentioned her educational qualification as under:

अ.क्र.	परिक्षेचे नाव	बोर्डाचे किंवा विद्यापीठाचे नाव	विद्या शाखा/विषय	उत्तीर्ण वर्ष	टक्केवारी %	उत्तीर्ण
B3	B.Sc.	Nanded University	Science	2008	58.75	उत्तीर्ण

(Quoted from page 25 of OA)

4. The Applicant has challenged the selection of Respondent no.4 who had stated in his application form as under:

अ.क्र.	परिक्षेचे नाव	बोर्डाचे किंवा विद्यापीठाचे नाव	विद्या शाखा/विषय	उत्तीर्ण वर्ष	टक्केवारी %	उत्तीर्ण
B3	B.A.	Pune	Arts	2013	50	उत्तीर्ण

(Quoted from page 46 of OA)

5. The Applicant has challenged the appointment of Respondent no.4 stating that the Applicant had higher percentage than Respondent no.4 and the Applicant was more qualified (B.Ed.) than Respondent no.4. It is contention of the Applicant that since the Applicant had higher qualification than Respondent no.4 and since she was female she should have been given preference in terms of the GR dated 27.6.2008 (para 7.3 page 7 of OA).

6. The Applicant has alleged that the selection of Respondent no.4 was malafide and arbitrary because the Respondents have relied on the GR dated 5.10.2015 rather than on the GR dated 27.6.2008. The Applicant has, therefore, prayed to quash the impugned selection.

7. Respondent no.4 has stated in his affidavit that the authorities have selected him in legal manner and, therefore, OA may be dismissed.

8. Respondents no.1 to 3 have filed their affidavit in reply that there was no malafide in selecting Respondent no.4 for the said post. The relevant portion of the affidavit reads as under:

*“15. With reference to Ground 7.2, I say as follows: The Applicant in this para has submitted a table mentioning comparison in educational qualification and marks in respect of her and the Respondent no.4. In the said table the Applicant has mentioned that, she had secured 66.83% in B.Ed., however, I most humbly say and submit that, the Applicant in her application form, dated 4.8.2015 (Exhibit B of the OA page No.24) did not mention anything about B.Ed. Therefore, the contention of the Applicant to say that, she is more qualified (B.Ed.) than the Respondent no.4 is totally denied.”*

(Quoted from page 61 of OA)

9. The Respondents have, therefore, prayed that the OA is without any foundation and deserves to be dismissed.

Discussion and findings:

10. We have examined the online application form of the Applicant as well as Respondent no.4. It is noticed that the Applicant did not mention regarding passing of B.Ed. in the application form. Thus, the Applicant as well as Respondent no.4 are having graduation degree and the Applicant cannot be said to be in possession of higher educational qualification. In these circumstances the action taken by the Respondents is just and the prayer made by the Applicant is a result of her dream rather than having any support of facts. Hence, the Applicant has failed to demonstrate any

reason to show that the action taken by the Respondents is arbitrary, malafide or illegal.

11. Original Application is dismissed. No order as to costs.

Sd/-

**(A.D. Karanjkar)**  
**Member (J)**  
**19.6.2019**

Sd/-

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**19.6.2019**

Dictation taken by: S.G. Jawalkar.

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