

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.732 OF 2022**

**DISTRICT : THANE**

Shridhar Prakash Pole, )  
Age 29 years, occ. Nil, R/o At Wai, Post Warala, )  
Tq. District Washim )..Applicant

Versus

1. The State of Maharashtra, )  
Through its Secretary, )  
Tribal Development Department, )  
Mantralaya, Mumbai )
2. The Commissioner, )  
Tribal Development Department, )  
Thane Division, Thane )..Respondents

Shri R.G. Panchal – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Smt. Medha Gadgil, Member (A)  
DATE : 13<sup>th</sup> April, 2023  
PER : Smt. Medha Gadgil, Member (A)

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

1. The applicant challenges the communication dated 7.3.2022 issued by the respondents based on interpretation of GR dated 13.6.2018. In this matter the applicant challenges his non selection to the post of Librarian in the Government Ashram School under the jurisdiction of the Tribal Department.

2. The respondent no.2 issued advertisement dated 18.12.2018 inviting application for recruitment to 15 posts of Librarian in Government Ashram School and others. The applicant participated in the selection process for the post of Librarian under NT-C General category. On completion of written examination the applicant was called for document verification on 20.7.2019.

3. After completion of process of written examination and document verification the respondents published list of selected candidates wherein at Sr. No.133 the name of Hajare Dnyaneshwar Sukhadev and applicant's name figured at Sr. No.298. The candidate who appeared at Sr. No.133 in the list was recommended in the NT-C General category and thereafter the name of the applicant was listed at Sr. No.298 in the same category. Thus, the name of the applicant was at Sr. No.2 among 25 candidates of the same category. Shri Hajare D. Sukhadev, whose name was considered against NT-C General category did not remain present for document verification. However, the name of the applicant who was next in the list of the same category was not shown. The applicant submitted representation through email on 8.11.2019 and asked as to when the next candidate in the merit list will be called.

4. Ld. Advocate for the applicant submits that since the candidate who secured highest marks in the NT-C General category i.e. Hajare D.

Sukhadev did not turn up for document verification, the applicant should have been considered and enlisted in the select list. He further stated that the above mentioned post is still vacant. He refers to the judgment of the Hon'ble Supreme Court in **Dinesh Kumar Kashyap Vs. South East Central Railway & Ors (2019) 12 SCC 798**.

5. Ld. PO while opposing the OA relied on the affidavit dated 11.1.2023 filed by Pradeep Banajirao Desai, Assistant Commissioner, Tribal Development, Thane. While admitting that the candidate at Sr. No.133 who was part of the select list was not considered for appointment as he failed to remain present for document verification. The respondents have stated that they were unable to give appointment to the applicant as they had referred the matter to GAD for obtaining sanction for selection of remaining candidates and the proposal was rejected by GAD. He further relied on the **judgment and order dated 1.7.2015 passed by the Hon'ble High Court Bench at Aurangabad in W.P. No.8580 of 2014 Mahesh D. Ghube**.

6. We have considered the submissions of both the sides. It is a fact that the applicant had fairly participated in the recruitment process and figured at Sr. No.2 in the NT-C General category. We have examined the GR dated 13.6.2018. Clause 12 of the said GR reads as under:

“१२. निवडसूचीत समाविष्ट करावयाच्या उमेदवारांची संख्या:-

निवडसूची ही प्रवर्गनिहाय तयार करण्यात यावी व त्यामध्ये समाविष्ट करावयाच्या उमेदवारांची संख्या पुढीलप्रमाणे असावी:-

प्रवर्गनिहाय रिक्त पदांची संख्या	निवडसूचीमध्ये समाविष्ट करावयाच्या उमेदवारांची संख्या
१	३
२ ते ४	रिक्त पदे अधिक रिक्त पदांच्या १०० टक्के किंवा ५ यापैकी जे अधिक असेल ते.

प्रवर्गनिहाय रिक्त पदांची संख्या	निवडसूचीमध्ये समाविष्ट करावयाच्या उमेदवारांची संख्या
५ ते ९	रिक्त पदे अधिक रिक्त पदांच्या ५० टक्के किंवा १० यापैकी जे अधिक असेल ते.
१० ते ४९	रिक्त पदे अधिक रिक्त पदांच्या ३० टक्के किंवा १५ यापैकी जे अधिक असेल ते.
५० किंवा याहून अधिक	रिक्त पदे अधिक रिक्त पदांच्या २५ टक्के

वरीलप्रमाणे अतिरिक्त उमेदवारांच्या संख्येची परिगणना करताना उमेदवारांची संख्या अपूर्णाकात येत असल्यास पुढील पूर्णांक संख्या विचारात घेण्यात यावी.”

7. It is clear that the respondents did not prepare category wise select list. While there were 15 posts of Librarian, they prepared list of 15 only which was not consistent with clause 12 of the GR dated 13.6.2018. Moreover, the candidate no.1 in NT-C General category did not turn up for document verification. They should have offered appointment to the applicant, who was next in the order of merit in the same category.

8. In view of the above, we direct the respondents to give appointment to the applicant to the post of Librarian within a period of three months from today, subject to verification of documents. No order as to costs.

Sd/-

**(Medha Gadgil)**  
**Member (A)**  
**13.4.2023**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**13.4.2023**

Dictation taken by: S.G. Jawalkar.