

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATIONS NO.35 & 62 OF 2020**

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**ORIGINAL APPLICATION NO.35 OF 2020**

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|----|----------------------------------|---------------|
| 1. | Dr. Dudhabhate Birappa Tippanna, | )             |
| 2. | Dr. Shekde Sachin Devidasrao     | )             |
| 3. | Dr. Rahul Digambarrao Anerao     | )..Applicants |

Versus

The State of Maharashtra & Anr.	)..Respondents
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**WITH**

**ORIGINAL APPLICATION NO.62 OF 2020**

Dr. Vaibhav Dattatraya Shinde	)..Applicant
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Versus

The State of Maharashtra & Anr.	)..Respondents
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Shri M.D. Lonkar – Advocate for the Applicants in OA No.35 of 2020

Shri A.V. Sakolkar – Advocate for Applicant in OA No.62 of 2020

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)

Shri A.P. Kurhekar, Member (J)

DATE : 22<sup>nd</sup> January, 2020

**ORDER**

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicants in OA No.35 of 2020, Shri A.V. Sakolkar, learned Advocate for Applicant in OA No.62 of 2020 and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. Issue notice in OA No.62 of 2020 returnable on 6.2.2020.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
7. In case notice is not collected within three days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.

8. Ld. Advocates for the applicants in these two OAs have prayed for interim relief. Both these OAs are taken together as the applicants have made similar prayers. The applicants in these OAs have applied for the post of District Health Officer which is being advertised by the respondent no.2-MPSC. The applicants in OA No.35 of 2020 have prayed as under:

*“10(b) This Hon’ble Tribunal further be pleased to hold and declare that the action on the part of respondent no.2 in declaring the petitioners as ineligible candidates for participation in the selection process as illegal and bad in law and the same also be quashed and set aside.*

*(c) Pending the hearing and final disposal of the present OA, this Hon’ble Tribunal be pleased to pass an interim order directing respondent no.2 to allow the petitioners to participate in the interview test and directions be issued to respondent no.2 to conduct interview test of the petitioners, subject to the outcome of the present OA and on such terms and conditions as this Hon’ble Tribunal may deem fit and proper.”*

(Quoted from pg.14-15 of OA.35/2020)

9. Similar prayer is made in OA No.62 of 2020. The MPSC has published a list of candidates eligible for interview (Exh.H page 44-47 of OA No.35 of 2020). The MPSC has also published a list of candidates who are not eligible as per criteria and prima facie not eligible (Exh.I pg.48-56). The MPSC has further published dates and time at which the candidates are called for interview starting from 20.1.2020 to 24.1.2020 (Exh.J pg.57-60). During hearing it is clarified that the list of candidates, who are ineligible, is not in descending order and is prepared in random. The applicants in OA No.35 of 2020 are figuring at Sr. Nos.6, 17 & 19 and applicant in OA No.62 of 2020 is at Sr. No.13. The MPSC has further published the criteria at Exh.G page 41 as under:

“1) अराखीव - 90 सर्वसाधारण पदाकरीता निकष (निकष क. 9)

1. *MBBS degree of a statutory University or any other qualification specified in the First Schedule or Second Schedule to the Indian Medical Council Act, 1956; and*

2. *Post-graduate degree in Preventive & Social Medicine a qualification accepted as equivalent by the Medical Council of India,*

*AND THEREAFTER*

3. *Experience of Health administration, Medical relief or Family planning, Malaria/Leprosy under Government, Zilla Parishad or a local Body for not less than **11 years 7 months 2 days** in the case of those holding post-graduate degree, gained after acquiring the MBBS degree.*

*निकष क. २*

1. *MBBS degree of a statutory University or any other qualification specified in the First Schedule or Second Schedule to the Indian Medical Council Act, 1956; and*

2. *Post-graduate Diploma in Public Health (DPH) or a qualification accepted as equivalent by the Medical Council of India,*

*AND THEREAFTER*

3. *Experience of Health administration, Medical relief or Family planning, Malaria/Leprosy under Government, Zilla Parishad or a local Body for not less than **17 years 05 months 24 days** in the case of those holding post-graduate diploma, gained after acquiring the MBBS degree.”*

(Quoted from pg.41 of OA.35/2020)

10. According to the Ld. Advocate for the applicants in OA No.35 of 2020, applicants no.1 & 2 have completed Diploma in Public Health. Applicant no.1 possesses experience of 14 years 9 months and 17 days and Applicant no.2 possesses experience of 12 years 9 months and 2 days. Applicant no.3 is Post-graduate and possesses experience of 7 years 6 months and 3 days.

11. According to the Ld. Advocate for the applicant in OA No.62 of 2020 the applicant is having Post-graduate Diploma in Public Health and possesses experience of 14 years 3 months and 23 days.

12. The criteria mentioned in Exhibit G page 41 by MPSC however, stipulates that a person with Post-graduate Degree should have experience of 11 years 7 months and 2 days and in case of Post-graduate Diploma the experience should be 17 years 5 months and 24 days.

13. Rule 9 of The Maharashtra Public Service Commission Rules of Procedure, 2014 stipulates as under:

*“9. Direct Recruitment.- (i) The number of candidates to be shortlisted for the interview shall be as follows:-*

<i>No. of posts advertised</i>	<i>No. of candidates to be called for interview</i>
<i>1</i>	<i>5</i>
<i>2</i>	<i>8</i>
<i>3 and more</i>	<i>3 times</i>

*However, in cases of isolated posts at the State level i.e. Directors of field department etc. which are equivalent to the grade of Joint Secretary in Mantralaya or above, the Commission may decide from time to time, the number of candidates to be called for the interview. The number of*

*candidates to be shortlisted for interview shall not exceed 10 times the number of such vacancies, in any case.*

*(ii) If the number of candidates found eligible after scrutiny are less than the proportion mentioned hereinabove in clause (i) all such eligible candidates shall be called for the interview.*

*(iii) If some of the candidates having called, either do not turn-up for the interviews or are found ineligible on verification of their original documents or fail to produce relevant documents and hence do not qualify for the interview, it shall not prevent the Commission from conducting the interviews of only the eligible candidates from amongst those called for the interview.”*

(Quoted from Exh.F page 38 of OA)

14. Reading of the above rules makes it clear that in the present case number of posts which have been advertised are 30 (Exh.A page 17) and thus three times more candidates need to be called for interview as per rule quoted above. The rule further clarifies that in case any person does not qualify for the interview, it shall not prevent the Commission from conducting the interviews of only eligible candidates from amongst those called for interview.

15. Careful reading of the above rules reveals that the process involves two steps viz. (i) verification of documents of persons who are called for interview and (ii) interview of all the eligible candidates.

16. Rule 9 mentioned above makes it clear that when the number of posts advertised are 3 and more, the number of candidates to be called for interview needs to be 3 times of the same. Thus, in the present case the number of candidates to be selected is 30 and it is expected that 90 candidates shall be interviewed.

17. Rule 9(iii) mentions that in case the candidates who are called for are found ineligible during verification, it shall not prevent the Commission from conducting the interviews of only the eligible candidates from amongst those called for the interview. The important word in both the Rules is 'candidates called for interview' and not for 'verification'. It is thus clear that the persons to be called for verification may be larger than the number of candidates who are actually interviewed since there is a possibility that candidates who have filled in online application form might have furnished wrong information and they are found ineligible.

18. The Ld. Advocate for applicants in OA No.35 of 2020 mentions that according to his information, 4 candidates are not eligible to be called for interview.

19. The Ld. Advocate for applicant in OA No.62 of 2020 mentions that according to his information, 5 candidates are not eligible to be called for interview.

20. Ld. CPO has no details of the exact number of persons who are declared ineligible as the process of verification will continue up to 24<sup>th</sup> January, 2020.

21. In light of the above, prima facie it appears that several candidates who have applied for the post of District Health Officer to be interviewed might be found ineligible during verification, and if only these are interviewed, the criteria fixed by the MPSC is likely to be reduced to ensure the ratio of 1:3 candidates for interview.

22. At this stage since list of candidates who are declared as ineligible is not in the descending order and it is not clear where the applicants in the

present OAs stand, it would be difficult to stipulate whether they would be found fit in the criteria or otherwise. The process of verification is separate and the process of interview is separate and it is necessary to ensure that adequate number of candidates are interviewed.

23. In our considered opinion therefore we direct the respondent no.2-MPSC that 90 candidates be interviewed as stipulated in rule 9 quoted above. Therefore every effort should be made by MPSC that 90 eligible candidates are interviewed, subject to availability of candidates and reservation, after eliminating those who are found ineligible at the time of verification.

24. The interviews are to be over on 24.1.2020 and therefore MPSC is further directed to ensure that the exercise stipulated above is completed before 24.1.2020 and all candidates are interviewed who are eligible as per criteria mentioned above.

25. To ensure that the stipulated numbers of candidates are interviewed, the MPSC may conduct the interviews beyond 24.1.2020, if required. The process thus completed should be published on the official website of MPSC. S.O. to 6.2.2020. Hamdast granted.

**(A.P. Kurhekar)**  
**Member (J)**  
**22.1.2020**

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**22.1.2020**

Dictation taken by: S.G. Jawalkar.