

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**DISTRICT : NANDED**

**ORIGINAL APPLICATION NO.585/2012**

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Dr. Upendra s/o Vithalrao Gaikwad,  
Age : 37 years, Occ : Service,  
101, Sai Leela Apartment, Bhandari Nagar,  
Near Tiny Angles School,  
District-Nanded.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through Secretary,  
Agriculture, Animal Husbandry,  
Dairy and Fisheries,  
Mantralaya, Mumbai-400 032.
- 2) The Secretary,  
Maharashtra Public Service Commission,  
Mahatma Gandhi Road, Bank of India Building,  
Third Floor, Hutatma Chowk,  
Mumbai-400 001.
- 3) Dr. Kamble Prashant Dhananjay,  
Age : 38 years, Occ : Assistant Commissioner,  
Animal Husbandry, Taluka Veterinary Mini Polyclinic,  
Near Police Station, Adjacent to Blind School,  
Badlapur, Dist. Thane.
- 4) Dr. Narwade Baburao Rameshrao,  
Assistant Commissioner,  
Animal Husbandry, Dream Nest Apartment,  
"G", Wing-101, Tagore Nagar,  
Nasik-422 010.
- 5) Dr. Sonwane Nana Arjun,  
Assistant Commissioner,  
Animal Husbandry,

District Veterinary Polyclinic,  
Markandi, Chiplun, District-Ratnagiri.

- 6) Dr. Pasarte Sunil Chandan,  
Assistant Commissioner,  
Animal Husbandry, Central Hatchery,  
Padegaon, District Aurangabad. ...RESPONDENTS

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APPEARANCE : Shri Asif Ali learned Advocate holding for  
Smt. A.N.Ansari learned Advocate for the  
Applicant.

Shri N.U.Yadav, learned Presenting Officer for  
respondent nos.1 and 2.

None appeared for respondent nos.3 to 6.

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CORAM: Hon'ble Shri Rajiv Agarwal, Vice-Chairman and  
Hon'ble Shri J.D.Kulkarni, Member (J)

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DATE: 21<sup>st</sup> October, 2016.

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**ORDER**

**[PER: VICE-CHAIRMAN]**

Heard learned Advocate Shri Asif Ali holding for  
Smt. A.N.Ansari learned Advocate for the Applicant and  
Shri N.U.Yadav learned Presenting Officer for the Respondent  
nos.1 and 2. None for the respondent nos.3 to 6.

2. This O.A. has been filed by the Applicant challenging the select list dated 26-07-2012, published by the Respondent No.2 for the post of Assistant Commissioner, Animal Husbandry, Group "A".

3. Learned Advocate for the Applicant argued that the Respondent no.2 viz. Maharashtra Public Service Commission (M.P.S.C.) had issued an advertisement on 17-04-2009 to fill up 153 posts of Assistant Commissioner (A.C.) of Animal Husbandry. 17 posts were reserved for Scheduled Caste (S.C.) category including 5 for Women candidates. The Applicant had participated in the selection process and was interviewed for the post. The Respondent No.2 has issued a brochure for selection by direct recruitment. As per para 5.13.1 of the brochure all candidates are required to be considered first for Open posts without consideration of the reservation category to which they belong. However, the Respondent No.2 did not prepare select list on this basis. In the select list published 26-07-2012, candidates at Sr.No.3, 6, 7 and 20 should have been selected from Open category. However, these candidates were selected from S.C. category. If these candidates at Sr.No.3, 6, 7 & 20 were selected against 'Open' vacancies, the Applicant has a good chance of being selected against vacancy reserved for S.C. category.

Learned Advocate for the Applicant argued that the Respondent No.2 may be directed to prepare select list as per para 5.13.1 of the instructions issued by the Respondent No.2.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondent Nos.1 and 2 that out of 153 posts of A.C., which were advertised, 12 posts were reserved for S.C. category. A total of 82 applications were received for these 12 posts. The Respondent No.2 applied short listing criteria. 33 candidates from S.C. category were called for interview. Candidates at Sr.No.3, 6, 7 and 20 submitted applications from S.C. general category (i.e. posts vertically reserved for S.C. category with no horizontal reservation). The candidates did not fulfill the short listing criteria for Open post and therefore could be considered only for posts reserved for S.C. category. Learned P.O. contended that the persons selected against vacancies reserved for S.C. candidates at Sr.No.3, 6, 7 and 20 were not eligible to be short listed for Open posts. As a result, the contention of the Applicant is incorrect.

5. We find that the Respondent no.2 had applied the two short listing criteria for Open and S.C. posts, viz.,

For Open posts, first criterion was:

- (i) Master's degree in Veterinary Science and
- (ii) Ph.D. degree in Veterinary Science and

(iii) Not less than 5 years of experience.

This was common for Open and S.C. categories.

Second criteria was however different and for Open post, minimum 80% marks in Master's level were required while for S.C. (General) category, 75% minimum marks at Master's level were prescribed. The candidates at Sr.No.3, 6, 7 and 20 were short listed as per this second criteria for S.C. (General) candidates and they did not fulfill the short listing criteria for Open posts. They were, therefore, selected against posts reserved for S.C. category and could not be considered for selection to Open posts as they did not fulfill the shortlisting criteria for Open posts. We do not find anything wrong with the decision of the Respondent No.2.

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

**(J. D. Kulkarni)**  
**MEMBER (J)**

**(Rajiv Agarwal)**  
**Vice-Chairman**