

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 1018 OF 2023

DIST. : HINGOLI

Faijulkhan s/o Sherkhan Pathan,)
 Age. 33 years, Occu. : Nil,)
 R/o Samrat Colony, Basmath,)
 Tq. Basmath, Dist. Hingoli.).. **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Revenue Department,)
 Maharashtra State, Mantralaya,)
 Mumbai - 400 032.)

2. The Collector,)
(President of District Selection)
Committee))
 O/a. Collector Office Building)
 Hingoli, Maharashtra.)

3. The Sub-Divisional Officer,)
(Member of District Selection)
Committee),)
 O/a. Sub Divisional Office,)
 Hingoli, Maharashtra,)
 Through its Assistant Director,).. **RESPONDENTS**

 APPEARANCE :- Shri Zia-ul-Mustafa, learned Advocate for
 the applicant.

: Shri V.G. Pingle, learned Presenting
 Officer for the respondent authorities.

CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

RESERVED ON : 05.04.2024

PRONOUNCED ON : 20.06.2024

ORDER

[Per :- Justice P.R. Bora, V.C.]

1. Heard Shri Zia-ul-Mustafa, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for respondent authorities.

2. Applicant had applied for the post of Talathi in pursuance of the advertisement issued on 25.02.2019 by respondent No. 2. The applicant secured 168 marks in the examination. Applicant has applied from the General Category. It is the contention of the applicant that one seat which was reserved for candidate belonging to Socially and Educationally Backward Communities Category (for short 'S.E.B.C') was converted into a Open seat. According to the applicant, he was therefore, liable to be appointed against the said seat as in the select list published by respondent No. 02 on 02.12.2019 his name was at sr. no. 01 in the waiting list prepared for the Open category candidates. According to the applicant, the SEBC seat, which was converted into Open seat, was liable to be given to the applicant on the basis of the meritorious position secured by him. Since the applicant was not considered for the said seat, he made a representation to respondent no. 02 on 21.10.2022. Since no reply was received from respondent No. 2

to the said representation, the applicant ultimately approached this Tribunal by filing the present Original Application. Applicant has sought directions against respondent Nos. 1 to 3 to appoint him for the post of Talathi as per the merit list and to pay him all the benefits from the past.

3. Respondent Nos. 2 & 3 have filed a joint affidavit in reply to resist the contentions raised and prayers made in the Original Application. Respondents have denied the objections raised by the applicant in his Original Application. It is contended that as per the advertisement issued on 25.02.2019, 25 posts of Talathi were to be filled in, out of which 07 were for Open category, 02 were Open General, 03 were Open Women, 01 for Open Sportsperson and 01 for Open Ex-serviceman. It is contended that S.E.B.C. General candidates namely Amol Ranjitrao Ingle and Gopal Sitaram Mukirare were the toppers in the merit list at Sr. Nos. 01 & 03 in the said list having obtained 187 and 170 marks respectively. On the basis of their merit the said candidates were selected against the Open General seats. It is further contended that since the applicant has applied for the subject post from Open category and secured 168 marks out of 200, he has been kept on waiting list at Sr. No. 01. It is further contended that as per the policy of reservation prevailing

at the time of issuance of the advertisement, 16% posts were shown to be reserved for S.E.B.C category. It is further contended that said reservation was reduced to 13% and as per 13% reservation the S.E.B.C. category got 04 seats in the said recruitment. Accordingly, the said seats have been filled in from amongst the S.E.B.C. candidates on their merit. It is further contended that reply was sent on 29.11.2022 by respondent No. 2 to the letter sent by the applicant on 21.10.2022. Copy of the said reply is placed on record. Respondents have further submitted that on the basis of the marks secured by the applicant, his name has been rightly included in the waiting list at Sr. No. 01 prepared for Open General candidates. It is further contended that there were no such orders to convert the posts reserved for S.E.B.C. into Open seats. Respondents have for all above reasons prayed for rejecting the application filed by the applicant.

4. To the affidavit in reply of respondent Nos. 2 & 3 the applicant has submitted a rejoinder affidavit. In the rejoinder affidavit, it is contended that after the Hon'ble Supreme Court vide its decision delivered on 05.05.2021 declared the S.E.B.C. quota as unconstitutional, the District Collector, Sangali vide communication dated 20.01.2020 had de-reserved 02 seats of

S.E.B.C. (General) category into Open (General) category. It is further contended that in the aforesaid communication dated 20.01.2020 there was a reference of Government Resolution dated 04.07.2019. Along with his rejoinder affidavit the applicant has placed on record copy of communication dated 20.01.2020 issued by the District Collector, Sangali along with its annexures.

5. We have duly considered the submissions made on behalf of the applicant, as well as, the respondent authorities. We have also gone through the documents filed on record. It is not in dispute that the applicant scored 168 marks in the examination held for selection for the post of Talathi and that his name was included at sr. no. 01 in the waiting list for the Open General candidates. As noted above, it is the contention of the applicant that though as per the order of the Hon'ble Supreme Court 16% reserved quota for S.E.B.C. candidates was reduced to 13%, the remaining 03% seats reserved for S.E.B.C. candidates were to be converted into Open seats and if that would have been done, the applicant was liable to be selected. The contention as has been raised by the applicant has been denied by the respondents. In order to support his contention that the seats which were reduced reserved for S.E.B.C.

candidates were directed to be converted into Open seats has not been substantiated by the applicant. The applicant in that regard has relied upon the letter dated 04.07.2019 issued by the General Administration Department of the Government. We have carefully gone through the contents of the said letter. In the said letter it is nowhere directed that the reduced 3% seats of S.E.B.C. candidates shall be converted into Open General seats. The applicant has also relied upon some directions issued by the District Collector, Sangli. It has to be stated that the directions issued by the District Collector, Sangli in regard to the recruitment in the said District may not be applicable in the instant matter and it cannot be said to be a decision taken by the Government. Moreover, the applicant has not brought on record any evidence to show that in the Open category any candidate securing less marks than him has been selected and appointed. In absence of any such evidence it is difficult to accept the contentions raised by the applicant. The applicant has utterly failed in substantiating his contentions on the basis of which he has sought the relief.

6. For the reasons as aforesaid, the Original Application deserves to be dismissed being devoid of merit. Hence, we pass the following order:-

ORDER

The Original Application stands dismissed, however,
without any order as to costs.

MEMBER (A)**VICE CHAIRMAN****Place : Aurangabad****Date : 20.06.2024**

ARJ O.A. NO. 1018 OF 2023 (APPOINTMENT)