

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 381 OF 2023**

**DISTRICT :-      PARBHANI,  
HINGOLI, LATUR**

- 1. Rajesh s/o Sakharam Manwate,      )**  
Age-43 years, Oce. Service as a      )  
Agriculture Assistant,      )  
Presently working at Taluka Agri. Office,)   
Jintur, R/o At post Davhra, Tq-Jintur, )   
Dist. Parbhani.      )
  
- 2. Basweshwar s/o Vyankat Suryawanshi, )**  
Age. 32 years, Oce. Service as a      )  
Agriculture Assistant      )  
Presently working at Taluka Agri Office,)   
Shirur Anantpal.      )  
R/o Row House No. 107,      )  
Baga Reddy Colony,    Sarola Road,      )  
Latur, Tq. & Dist. Latur.      )
  
- 3. Ramprasad s/o Marotrao Ranshur,      )**  
Age. 35 years, Occ. Service as a      )  
Agriculture Assistant Presently working)   
At Taluka Agri Office, Hingoli,      )  
R/o Near Bus Stop, Savata Nagar,      )  
Jawalabazar, Hingoli. (**Deleted**)      )..      **APPLICANTS**

*V E R S U S*

- 1. The State of Maharashtra,      )**  
Through Principal Secretary,      )  
Agriculture Department,      )  
Mantralaya, Mumbai-32.      )
  
- 2. The Commissioner (Agriculture),      )**  
Commissioner Office of Agricultural,      )  
Maharashtra State,      )  
Pune Krushi Ayuktalay, 2nd Floor,      )  
Central Building, Shivaji Nagar,      )  
Pune-411001.      )

- 3. Divisional Joint Director of Agriculture,)**  
 Latur Division, Latur, )  
 Behind Old Collector Office, )  
 Shivaji Chowk, Latur-413512. )
- 4. Bandu s/o Kerba Kokate, )**  
 Age-Major, Occu-Service as a )  
 Agriculture Assistant )  
 Presently working at Taluka Agri Office,)  
 Washi, R/o-Taluka Agriculture Office, )  
 Washi, Taluka Washi, )  
 District Osmanabad. )**..RESPONDENTS**

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 APPEARANCE : Shri Vaibhav U. Pawar, learned counsel  
 for the applicants.

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

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**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN  
 AND  
 SHRI VINAY KARGAONKAR, MEMBER (A)**  
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**DATE : 07.08.2024**  
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### **ORAL ORDER**

*(Per : Justice Shri P.R. Bora, Vice Chairman)*

Heard Shri Vaibhav U. Pawar, learned counsel for  
 the applicant and Shri V.G. Pingle, learned Presenting Officer  
 for the respondent authorities.

2. The present applicant appeared for the Limited  
 Departmental Competitive Examination for the post of  
 Agriculture Supervisor in Group-C. Advertisement in that

regard was issued by respondent no. 3 on 13.1.2023. Total 99 posts were to be filled in. Accordingly, departmental examination was conducted on 3.4.2023 and its result was declared on 20.4.2023. In the merit list published by the respondents, the applicant nos. 01 and 02 are given rank of 99 and 98 respectively.

3. When the recruitment process was going on the Government Resolution dated 20.4.2023 came to be issued, whereby the Government has taken a decision to provide 4% reservation to the Divyang candidates even while effecting the promotions. In order to give effect to the said G.R. the final list prepared of the recommended candidates was modified. The last 4 candidates in the said list of recommended candidates were deleted. The applicant nos. 01 and 02 are such candidates though they are having the ranking of 99 and 98 respectively have been deleted and respondent no. 04, who is given ranking as 118 is shown to have been selected. In the circumstances, the applicants have approached this Tribunal with the following prayers:-

*“A) This Original Application may kindly be allowed.*

*B) By allowing this Original Application, the provisional selection and waiting merit list published on dated 02/05/2023 may kindly be quashed and set aside to the extent of Respondent no.4.*

*(C) By allowing this Original Application, to hold and declare that the impugned GR dated 20/04/2023 is not applicable in the present case and consequently be pleased to direct the Respondent authorities not to apply the GR dated 20.04.2023 in respect of 4% reservation of disabled candidates.*

*(D) By allowing this Original Application, kindly direct the Respondent authorities to issue the appointment orders as per earlier provisional selection and waiting merit list in favour of present applicants for the post of Agriculture Supervisor.”*

4. The contentions so raised by the applicants in their Original Application and the prayers made therein are opposed by the respondents. Respondent nos. 01 to 03 have filed their joint affidavit in reply, wherein it is contended that on the basis of the G.R. dated 20.04.2023 issued by the General Administration Department, necessary actions have been taken for providing reservation in promotion to the Divyang candidates at the rate of 4%. Aforesaid is the only reason provided by the respondents in support of the change, which has occurred in the midst of the selection process.

5. Learned counsel for the applicant pointed out that the G.R. dated 20.4.2023 on the basis of which the modification has been caused in the list of the recommended candidates was to be given prospective effect and could not have been retrospectively made applicable. Learned counsel submits that process for promotions was initiated vide advertisement issued on 23.01.2023 and the entire process was completed prior to

issuance of the G.R. dated 20.04.2023. Learned counsel submits that the respondents have wrongly interpreted the G.R. dated 20.04.2023, which has resulted in removal of the names of some of the applicants from the list of recommended candidates and for non-inclusion of the names of some of eligible applicants.

6. Learned counsel in the circumstances prayed for directions against the respondents to modify the list of selected candidates and include the names of the applicant nos. 01 and 02 in the said list by removing the name of respondent no. 04. Learned counsel pointed out that till the date of filing the Original Application no appointment orders were issued in favour of the Divyang candidates, whose names are included in the recommended candidates, however, during the pendency of the O.A. the appointments are issued in favour of such candidates and respondent no. 04 is one of such candidates.

7. Respondent no. 04 has not caused his appearance in the matter and has also not submitted his affidavit in reply to the Original Application.

8. Learned Presenting Officer submitted that the G.R. dated 20.04.2023 was directed to be made applicable to all

pending processes also and accordingly the provisions in the said G.R. were implemented. Learned P.O. invited our attention to clause in the advertisement, which demonstrates that the appointing authority may cause change in the nature of examination, date of examination, as well as, can increase or decrease the number of posts advertised. According to the learned P.O., invoking said power, 4% reservation is given by the Government vide G.R. dated 20.04.2023 and accordingly necessary changes were made in the final list of recommended candidates. Learned P.O. submitted that having regard to the said fact, no error has been committed by the respondents. He, therefore, prayed for dismissal of the Original Application.

9. We have duly considered the submissions made by learned counsel appearing for the applicant, as well as, the Presenting Officer appearing for the respondent authorities. We have gone through the documents placed on record. Most of the facts are not in dispute. Though it has been submitted on behalf of the State Authorities that the provisions under G.R. dated 20.04.2023 were liable to be implemented insofar as pending selection processes are concerned, we are unable to agree with such submissions. In the present matter, the selection process was initiated in the month of January, 2023.

The Limited Departmental Competitive Examination was held in the month of April, 2023 and the results were declared immediately thereafter. The final recommendation list was also published in order of merit. No Divyang candidate was shown to have been selected in the said list. From the documents it appears that in the month of May, 2023 that the changes were effected and the last 04 candidates at the bottom of the said list were deleted and those posts were resolved to be reserved vacant for the Divyang candidates.

10. The only question, which falls for our consideration, is whether G.R. dated 20.04.2023 could have been made applicable to the present selection process, which had started in the month of January, 2023. The G.R. dated 20.04.2023 specifically states that the provisions made under it would apply from the date on which it has been issued i.e. on 20.04.2024 onwards. No other meaning can be attributed to the said clause except that the provisions thereunder would apply to the selection process, which would be commenced thereafter i.e. after 20.04.2024. We have, therefore, no hesitation in arriving at the conclusion that the G.R. dated 20.04.2024 could not have been made applicable to the present selection process, which admittedly had commenced in January, 2023 and by 20<sup>th</sup>

April, 2024 the result of written examination held for the said selection, was also declared.

11. As noted hereinabove, the recruitment process was carried out for filling in 99 posts. The respondents, however, resolved to issue the appointment orders to the candidate at sr. nos. 01 to 95 in order of merit from the provisional select list prepared by them. In the list of selected candidates the respondents included the name of the candidate namely Shri Bandu Kerba Kokate i.e. respondent no. 04 as the selected candidate at sr. no. 96 though in order of merit the said candidate is at sr. no. 118. Respondent no. 04 came to be selected despite having less marks than the applicants and few other candidates in view of the decision taken by the Government to keep 4% posts/seats reserved for Divyang candidates. Respondent no. 04 a is Divyang candidate. 03 posts are kept vacant by the respondents since no eligible Divyang candidates could become available. Said backlog is carried forward to be considered in the next recruitment process.

12. As stated hereinabove, it is the grievance of the applicants that though the applicant no. 01 and applicant no. 03, both, secured more number of marks than respondent no.



04, the respondents have included the name of said respondent no. 4 being a Dyvyang candidate against the seats reserved for the said category.

13. It has been argued on behalf of the applicants that since the Government has wrongly interpreted the G.R. dated 20.04.2023 they have been deprived from their selection in order of merit. It has been argued that both the applicants would have been definitely selected if the name of respondent No. 4 would not have been included in the list of selected candidates and had 03 posts been not kept vacant by the respondents. There appears substance in the contentions so raised on behalf of the applicants. The decision of the Government to provide 4% reservation for Divyang candidates cannot be opposed since the said decision has been taken after due deliberations and in larger interest. However, the said decision could not have been made applicable to the recruitment processes which had commenced prior to issuance of the said G.R. Clause 17 of the said G.R. provides that the provisions thereunder would be applicable from the date of its issuance i.e. 20.04.2023 onwards. By the said date the present recruitment process was almost completed. The respondents,

therefore, could not have made applicable the provisions under the said G.R. for the present recruitment process.

14. Learned counsel for the applicants fairly submitted that though in the O.A. the applicants have prayed for setting aside the selection of respondent No. 4, they are not pressing said relief provided the applicant Nos. 1 & 2 are accommodated against 03 seats, which are kept vacant for non-availability of the Divyang candidates. It is not in dispute that respondent No. 4 though has secured 99 marks and was at Sr. No. 118 in the provisional merit list, he has been selected being Divyang candidate. Admittedly, 03 posts are kept vacant due to non-availability of Divyang candidates. In view of 4% reservation made applicable for Divyang candidates out of 99 posts to be filled in, the respondents have earmarked 04 posts for such Divyang candidates. However, only 01 candidate i.e. respondent No. 4 became available, he has been appointed and other 03 posts are kept vacant.

15. We reiterate that G.R. dated 20.04.2023 was to be prospectively implemented and could not have been made applicable to the instant recruitment process. In the circumstances, the prayer made on behalf of the applicants deserves to be considered. The last selected candidate at Sr.

No. 95 has secured 103 marks. In the general merit list one Rajkumar Shinde was at Sr. No. 96. Applicant No. 3 Ramprasad Marotrao Ranshur was at Sr. No. 97, applicant No. 2, Basweshwar s/o Vyankat Suryawanshi was at Sr. No. 98 and applicant No. 01, Rajesh s/o Sakharam Manwate was at Sr. No. 99.

16. As per the information of the applicants Rajesh Shinde did not accept the appointment probably because he secured job elsewhere. Applicant No. 3 Ramprasad Marotrao Ranshur also got appointment and hence, he withdrew his name from the array of the applicants in the present O.A. Thus, applicant Nos. 1 & 2 are the candidates who have the valid claim over the unfilled seats kept so unfilled for want of Divyang candidates and deserve to be appointed on their merit on the said post without disturbing the appointment of respondent No.4.

17. For the reasons elaborated as above, we deem it appropriate to pass the following order: -

### **ORDER**

(i) The respondents shall consider applicant Nos. 1 & 2 for their appointment against the seats kept unfilled out of 99 posts

advertised if otherwise there is no impediment for their appointment and issue the appointment orders in their favour within 08 weeks from the date of this order.

(ii) The Original Application is allowed in the aforesaid terms, however, without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 07.08.2024**

O.A.NO.381-2023 (DB) SELECTION/WAITING LIST