

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 395 OF 2023

**DISTRICT :- AURANGABAD,
 JALNA**

- | | | |
|----|--|-------------------|
| 1. | Sanjay s/o Sakharam Londhe, |) |
| | Age-34 years, Oce. Service as a |) |
| | Agriculture Assistant, |) |
| | Presently working at Taluka Agri. Office,) | |
| | Ghansawangi, R/o Talegaon, |) |
| | Tq. Ghansawangi, Dist. Jalna. |)(Deleted) |
| 2. | Nandkishor s/o Sundargir Giri, |) |
| | Age. 33 years, Oce. Service as a |) |
| | Agriculture Assistant |) |
| | Presently working at Taluka Agri Office,) | |
| | Jaffrabad, Tq. Jaffrabad, Dist. Jalna, |) |
| | R/o Bharosa, Chikhali, Dist. Buldhana.) | |
| 3. | Ulka d/o Bhimraj Bankar, |) |
| | Age. 40 years, Occ. Service as a |) |
| | Agriculture Assistant Presently working) | |
| | At Taluka Agri Office, Gangapur, |) |
| | R/o Radhakrishna Residency, H-9, |) |
| | Mitmita, Aurangabad. |).. |
| | | APPLICANTS |

VERSUS

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,**
Aurangabad Division, Aurangabad,
Kranti Chowk, Kotla Colony,
Samta Nagar, Aurangabad – 431 005.

- 4. Dattatray s/o Ashokarao Pede,)**
 Age-37 years, Occu-Service as a)
 Agriculture Assistant)
 Presently working at Taluka Agri Office,))
 Vaijapur, R/o-Taluka Agriculture Office,)
 Vaijapur, Tq. Vaijapur,)
 Dist. Aurangabad – 423 701.)..RESPONDENTS

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

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

CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)

DATE : 07.08.2024

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 applicants had appeared for the Limited
 Departmental Competitive Examination for the post of
 Agriculture Supervisor Group-C. Advertisement in that regard
 was issued on 13.01.2023. Total 69 posts were advertised.
 After the result of the departmental examination was declared,
 the respondents published provisional select list on 2.5.2023.

During pendency of the present Original Application the applicant no. 01 withdrew the Original Application and hence his name was deleted from the array of the applicants. Applicant nos. 02 and 03 prosecuted the O.A. further. In the said provisional select list the names of the present applicants were at sr. nos. 70 and 71. The final list of selected candidates was published on 19.5.2023.

3. When the present recruitment was in progress, Government Resolution dated 20.04.2023 came to be issued, whereby the Government has taken a decision to provide 4% reservation to 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 in the present matter was modified. Proportionate to total seats to be filled in 3 posts were resolved to be reserved for Divyang candidates. However, only 01 Divyang candidate became available namely Dattatray Ashokrao Pede and his name was therefore included in the list of selected candidates at sr. no. 67 and 02 posts were decided to be kept unfilled for want of availability of Divyang candidates and the said backlog was decided to be carried forward in the next recruitment. Shri Dattatray Ashokrao Pede (respondent no. 04 in the present O.A.) though has received total 96 marks

and in the general merit list was at sr. no. 87, whereas the present applicants had received 105 and 104 marks respectively and were at sr. nos. 70 and 71 in the general merit list, they were not selected and giving the benefit of G.R. dated 20.04.2023 the respondent no. 04 has been selected.

4. It is the case of the applicants that G.R. dated 20.04.2023 could not have been made retrospectively applicable. As against it, according to the respondents, it was permissible to apply the said G.R. in view of the terms incorporated in the advertisement. It is further contended that 4% reservation was given to Divyang candidates under the orders of the Hon'ble Supreme Court. In the circumstances, according to the respondents, no error has been committed by them in preparing the final select list. The respondents have therefore prayed for dismissal of the present O.A.

5. 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.

6. 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 20th April, 2024 the result of written examination held for the said selection, was also declared.

7. As noted hereinabove, the respondents have published the list of selected the candidates containing 67 names and 02 posts are kept unfilled for non-availability of Divyang candidates and the said backlog is decided to be carried forward in the next recruitment process. Respondent no. 04 is the last selected candidate in the list of selected candidates at sr. no. 67. Learned counsel for the applicants fairly submitted that though in the O.A. the prayer has been made for cancellation of the appointment of the said respondent, the applicants are not now pressing the said relief provided the applicants are accommodated against 02 seats, which are kept unfilled for Divyang candidates. We see substance in the submission so made on behalf of the applicants. The G.R. dated 20.4.2023 could not have been made retrospectively applicable. While deciding O.A. No. 327/2023 we have elaborately discussed the said issue. The provisions under the aforesaid G.R. could not have been made applicable

in the instant recruitment process. As such we see no propriety in the decision taken by the respondents to keep 02 posts unfilled for non-availability of Divyang candidates. If the applicants possess valid claim on the said seats, there is no impediment in considering the applicants' for appointment against the said posts.

8. The final select list is placed on record at pages 68 and 69 of the paper book, perusal of it shows that the candidate at sr. no. 66 is Shri Uddhav Laxman Wagh, who had secured 105 marks in the examination. In the general merit list said Uddhad Laxman Wagh was at sr.no. 68 and at sr. no. 69 was the candidate Shri Sanjay Sakharam Londhe. Said Sanjay Londhe was the applicant no. 1 in the present O.A., but he has withdrawn the application and hence his name has been deleted. Just below name of Shri Sanjay Sakhara Londhe is the name of applicant no. 02, Nandkishor Sundargir Giri, and below the name applicant no. 02, Nandkishor Sundargir Giri, the name exists of applicant no. 03 Smt. Ulka d/o Bhimraj Bankar. It is thus evident that the next eligible candidates in the merit list are the applicant nos. 02 and 03. Therefore, there appears no impediment in directing the respondents to consider the

names of these applicants to be appointed against the 02 seats kept unfilled for non-availability of Divyang candidates.

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

ORDER

(i) The respondents shall consider applicant Nos. 2 & 3 for their appointment against the seats kept unfilled out of 69 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.395-2023 (DB) SELECTION PROCESS