

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.109 OF 2025**

**DISTRICT : THANE**

Ms. Pragati Vinod Patil, )  
Age : 28 years, Occu : Nil, )  
Address : Room No.35, Pitashri Niwas, )  
Hanuman Temple Road, )  
Tal. Bhiwandi, Dist. Thane )..Applicant

**Versus**

1. Maharashtra Public Service Commission, )  
Through the Secretary, )  
Trishul Gold Field, Plot No.34, Sector 11, )  
Opp. Sarovar Vihar, Belapur, CBD, )  
Navi Mumbai 400 614 )
2. The State of Maharashtra, )  
Through the Secretary, Social Justice & )  
Special Assistance Department, 1<sup>st</sup> floor, )  
Annex Building, Madam Cama Road, )  
Mantralaya, Mumbai 400 032 )
3. The State of Maharashtra, )  
Through the Secretary, )  
General Administration Department, )  
Mantralaya, Mumbai 400 032 )..Respondents

Shri Sachin Ambulkar h/f Shri S.S. Dere – Advocate for the Applicant  
Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Shri Atulchandra M. Kulkarni, Member (A)  
DATE : 14<sup>th</sup> February, 2025  
PER : Shri Atulchandra M. Kulkarni, Member (A)

### **J U D G M E N T**

1. The applicant prays for quashing and setting aside communication dated 2.1.2025 issued by the respondent no.1 thereby disqualifying and disallowing the applicant from appearing for interview on the ground that she does not have permanent Disability Certificate although she has cleared the written examination. The applicant further prays for directions to the respondent no.1 to hold/conduct the interview of the applicant in pursuance of interview schedule dated 24.12.2024 calling for the interview of eligible candidates of Food and Drugs Administration Services Main Examination, 2023 in relation to the Advertisement No.125/2023. The applicant also prays for directions to the respondent no.1 that the applicant shall be appointed to the post of Assistant Commissioner Gr.A or Food Safety Officer, Gr.B if she is declared successful in the final stage of selection.

2. Learned Advocate for the Applicant has submitted that applicant has applied for the posts of (i) Assistant Commissioner Food, Group A and (ii) Food Safety Officer, Group B in the Medical Education and Drugs Department in OBC disabled category. The Advertisement was issued MPSC (Respondent No.1) on 25.2.2023 vide its advertisement No.011/2023. Applicant has cleared the Preliminary as well as Main Examination and called for interview on 30.12.2024. However, the

Respondents refused the Applicant's candidature by letter dated 02.01.2025 on the ground that she does not possess permanent disability certificate. Learned Advocate for the Applicant has relied on the Clause 4.1.6 of the General Instructions.

3. Ld. Advocate for the applicant relied on order dated 4.1.2024 passed by this Tribunal in **OA No.1578/2023 J.S. Bansode Vs. The State of Maharashtra & Ors.** Paras 5, 6 & 7 of the said order reads as under:

“5. The main objection of the MPSC for not allowing the Applicant for 'Interview' is that Applicant is holding 'Disability Certificate' which is for temporary period i.e. from 21.01.2022 to 21.01.2027. The 'Section 34' of 'The Right of Persons with Disabilities Act, 2016' is about 'Reservation' where under Sub Section (d) - 'Mental Illness' is considered 'Benchmark' as one of the 'Disability for Reservation'. Sub Section (d) of Section 34 which is relevant here reads as under:-

*"34 : Every appropriate Government shall appoint every Government establishment not less than four per cent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with Benchmark Disabilities under Clauses (a), (b) and (c) and 1 per cent. for persons with Benchmark Disabilities under Clauses (d) and (e), namely —*

*(d) autism, intellectual disability, specific learning disability and mental illness.*

6. The extent of disability should be no less than 40% for persons with 'Benchmark Disability'. 'Section 2 (r)' of 'The Rights of

Person with Disabilities Act, 2016' defines a 'Person with Benchmark Disability' as under:-

*"2 (r) : Persons with benchmark disability" means a persons with no less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority."*

7. The word 'Temporary Disability' and 'permanent Disability' is nowhere defined separately in 'The Rights of Person with Disabilities Act, 2016' or also in Rules. However, definition of a 'Person with Disability' is defined in Section 2(s) of 'The Rights of Person with Disabilities Act, 2016' and reads as follows:-

*'2(s) : "persons with disability" means a persons with long term physical, mental, intellectual or sensory impairment which, inter-action with barriers, hinders his full and effective participation in society equally with others."*

4. However, the facts in this case are distinguished from the current OA.

5. Learned C.P.O. has tendered short affidavit-in-reply dated 13.02.2025 filed on behalf of Respondent No.1, through Ms. Sushma S. Chandramore, Under Secretary, in the office of Secretary, M.P.S.C. She has pointed out Exhibit R-I, G.R. dated 13.09.2022, annexed to the said reply. Para 8 of the said G.R. is reproduced below:

“८. ज्या दिव्यांग व्यक्ती कायमस्वरूपी दिव्यांगत्वाचे प्रमाणपत्र धारक आहेत, त्यांना शासनाच्या कायमस्वरूपी लाभाच्या योजनांचे लाभ अनुज्ञेय राहतील. तर ज्या दिव्यांग व्यक्ती ठराविक कालावधीकरिता दिव्यांग प्रमाणपत्र धारण करतात, त्या दिव्यांग व्यक्तींना दिव्यांगत्वाच्या प्रमाणपत्रातील नमुद कालावधीकरिता तात्पुरत्या स्वरूपात अंमलात असलेल्या योजनांचे लाभ अनुज्ञेय राहतील.”

6. Ld. CPO submits that the reservation for disabled is specified in para 5.18 of the advertisement No.011/23 of MPSC. Para 5.18.2 and relevant portion of परिशिष्ट - दोन are reproduced below:

“५.१८.२ प्रस्तुत परीक्षेमधून भरण्यात येणा-या विविध संवर्ग / पदांकरिता दिव्यांग सुनिश्चिती संदर्भातील तपशील सोबतच्या परिशिष्ट-दोन प्रमाणे आहे,

-: परिशिष्ट - दोन :-

महाराष्ट्र राजपत्रित नागरी सेवा संयुक्त पूर्व परीक्षा - २०२३

-: विविध संवर्गाकरिता दिव्यांग सुनिश्चितीचा तपशील :-

२१	अन्न सुरक्षा अधिकारी, गट-ब	शासन निर्णय, वैद्यकीय शिक्षण व औषधी द्रव्ये विभाग, क्रमांक: एफडीएस- २०२१/प्र.क्र.३८/२१/औषधे-१, दिनांक २४ फेब्रुवारी, २०२१	(1) LV (2) D.HH (3)OA, OL,BL, OAL, CP, LC,DW, AAV (4) SLD, MI (5)MD Involving (1) to (4)
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7. Exhibit R-2 has been annexed to the short affidavit in reply dated 13.2.2025. This Exhibit R-2 is GR dated 24.2.2021 of Medical Education & Drugs Department, the heading of which reads as under:

“दिव्यांग व्यक्ती हक्क अधिनियम, २०१६ नुसार अन्न व औषध प्रशासनाच्या आस्थापनेवरील गट-अ ते गट-ड संवर्गातील पदे दिव्यांगासाठी सुनिश्चित करणेबाबत”

8. The विवरणपत्र-अ of this GR specifies suitability of disability for specific post. The relevant portion applicable to Assistant Commissioner and Food Safety Officer are quoted below:

विवरणपत्र-अ

( वैद्यकीयशिक्षण व औषधीद्रव्येविभागशासननिर्णयक्र. एफडीएस-२०२१/प्र.क्र.३८/२१/औषधे-१, दि. २४ फेब्रुवारी, २०२१ सोबतचे)

आयुक्त, अन्न व औषध प्रशासनाच्या आस्थापनेवरील दिव्यांगासाठी सुनिश्चित करावयाची पदे

अ.क्र.	अन्न व औषध प्रशासनाच्या आस्थापनेवरील पदाचे नाव	शारिरिक योग्यता	दिव्यांग आरक्षणाचा सुयोग्य प्रकार
२	सहायक आयुक्त (अन्न)	S, ST, W, BN, RW, SE, H, C, MF	१) LV २) D,HH ३) OA, BA, OL, BL,OAL, LC, DW, AAV, MDY ४)MI ५)MD involving to १ to ४ Above
५	अन्न सुरक्षा अधिकारी	S, ST, W, BN, SE, RW	१)LV २) D,HH ३)OA, OL, BL, OAL, CP, LC, DW, AAV ४)SLD, MI ५) MD Involving १ to ३ Above

9. Ld. CPO submits that since the applicant is admittedly blind, she is unfit as per this GR dated 24.2.2021 for the post of Food Safety Officer and Assistant Commissioner, Food. Moreover, medical certificates dated 18.5.2022 and 26.6.2024 (Exhibit C of the OA) mentions the diagnosis in her case as 'BE-RETINITIS PIGMENTOSA' and that she is a case of 'Blindness'. She submits that the applicant has herself mentioned her percentage of bench mark disability as 75% as on 27.12.2017 in her application uploaded on 12.2.2023 on the MPSC website. The blindness

appears to have further deteriorated as is evident from the disability certificate dated 26.6.2024 in which the blindness has been mentioned as 90% indicating that the eye disease of the applicant is degenerative and is progressing gradually. Given the nature of duties required to be carried out by the Food Safety Officer and Assistant Commissioner, Food, the applicant will not be able to perform these duties satisfactorily given the degenerative nature of the blindness. She, therefore, contends that the applicant was disallowed to appear in the interview and was declared disqualified for not possessing permanent disability certificate.

10. Moreover, Sushma Suhas Chandramore, Under Secretary, MPSC, Navi Mumbai in her short affidavit in reply dated 13.2.2025 states that applicant has not produced the disability certificate No.482207 dated 27.12.2017 which she mentions in her application to the MPSC. Instead, the applicant has uploaded the disability certificate dated 18.5.2022 with the application form, which mentions that she is a case of blindness. She has further averred that at the time of document checking before the interview, the applicant produced another disability certificate dated 26.6.2024. The short affidavit further mentions that the applicant was held as not eligible for not having permanent disability certificate. However, later on, upon thorough checking, it was found that the applicant had submitted false information in her application form, wherein the applicant has claimed she is having low vision disability by suppressing the fact that she is having disability of blindness. The candidates with this ability as per GR dated 24.2.2021 are not eligible for the post of Assistant Commissioner, Food and Food Safety Officer. She further avers that the applicant has suppressed fact and entered in the recruitment process. Instruction No.1.4.4 which is reproduced below, as per general instructions to the candidates, the applicant is not eligible for recruitment in issue:

“१.४.४ उमेदवाराने अर्जात केलेले दावे कोणत्याही कारणास्तव बदलून देण्यात येणार नाहीत. तसेच उमेदवाराने अर्जात चुकीचा दावा केला असल्याचे आयोगाच्या निदर्शनास आल्यास सदर दावा रद्द करण्यात येईल व उमेदवारास सदर दाव्याच्या किंवा त्याच्याकडे असलेल्या प्रमाणपत्रानुसारच्या दाव्याच्या अनुषंगाने कोणतेही लाभ अनुज्ञेय करण्यात येणार नाहीत.

11. To see whether a particular Food Item is adulterated is one of the faculty by which the quality of food can be measured. The same is stated by the Government in परिशिष्ट - दोन which is quoted above. The Ld. CPO, therefore, contends that applicant cannot be considered for the post in question and hence, this OA needs to be dismissed.

12. In the light of the above discussion and submissions of both the sides, we pass the following order:

### **ORDER**

(A) The Original Application is dismissed.

(B) No order as to costs.

**Sd/-**

**(A.M. Kulkarni)**  
**Member (A)**  
**14.2.2025**

**Sd/-**

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**14.2.2025**

Dictation taken by: S.G. Jawalkar.