

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**O.A. No. 1116 of 2021 (D.B.)**

Vaishnavi Shankar Choudhari,  
Aged about 26 years,  
Occupation: Nil,  
R/o Gali No.2, Savitribai Fule Nagar,  
Chatrapati Shivaji Marg,  
Nagpur, Dist.Nagpur-27.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. Director General of Police,  
Maharashtra State Police Head Quarters,  
Shahid Bhagatsingh Marg,  
Colaba, Mumbai.
3. Superintendent of Police,  
SP Office, Bhandara,  
Dist. Bhandara.
4. Deputy Superintendent of Police,  
(Home) SP Office,  
Bhandara, Dist. Bhandara.

**Respondents**

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**Shri M.L. Vairagade, Id. Advocate for the applicant.**

**Shri S.A. Deo, Id. C.P.O. for the respondents.**

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**AND**  
**O.A. No.759 of 2022 (D.B.)**

Shubhangi D/o Janrao Wadde,  
Aged about 29 years, Occupation: Nil,  
R/o At Mohadari, Post Warad,  
Tah. Kelapur, Dist. Yavatmal-445323.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. Director General of Police,  
Maharashtra State Police Head Quarters,  
Shahid Bhagatsingh Marg,  
Colaba, Mumbai.
3. Superintendent of Police,  
SP Office, Wardha,  
Dist. Wardha.

**Respondents**

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**Shri M.L. Vairagade, Id. Advocate for the applicant.**

**Shri S.A. Deo, Id. C.P.O. for the respondents.**

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**AND****O.A. No.545 of 2022 with C.A. No. 216 of 2022 (D.B.)**

- 1) Nayana D/o Babanrao Katrojwar,  
Aged about 33 years,  
Occ. Student,  
R/o Katrojwar House, GondMohalla,  
Ward No. 5, Allapalli,  
Tah. Aheri, Dist. Gadchiroli.
- 2) Manjula D/o Naresh Rathod,  
Aged about 29 years,  
Occ. Student,  
R/o Ram Nagar, Post Yawli,  
Tah and Dist. Yavatmal.
- 3) Reshma D/o Vivekanand Khobragade,  
Aged about 24 years,  
Occ. Student,  
R/o PiliNadi, Kamptee Road, Nagpur.

- 4) Gangasagar D/o Shamrao Lekule,  
Aged about 29 years,  
Occ. Student,  
R/o Kupti, Post Wapti,  
Tah. Wasmal, Dist. Hingoli.
- 5) Ku. Darshana D/o Dharendra Sawaithul,  
Aged about 32 years,  
Occ. Student,  
R/o Empress Mill, Tim Chawl,  
Room No. 0/4, Jaripatka, Nagpur.

**Applicants.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. The Add. Director General of Police,  
Training and Special Force,  
Maharashtra State, Mumbai.
3. Police Commissioner, Nagpur City,  
District Nagpur.
4. The Director, Mahapariksha,  
Maharashtra Information Technology  
Corporation Ltd (MAHA IT),  
Office at Dinshaw Vacha Road,  
Near KC College, Church Gate,  
Mantralaya, Mumbai-400032.
5. Vikas Ashok Lende,  
Aged about 32 years,  
Occu. NIL,  
R/o Panchshil Nagar,  
Wadapura, Wadali Camp, Amravati.
6. Laxman Sheshrao Jadhav,  
Aged about 27 years.  
Occu. NIL,

R/o post Bhilanaya Tanda,  
Chikhali, Tah.Kinwat, Dist. Nanded.

**Respondents**

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**Shri Moon, Id. Advocate for the applicants.**

**Shri S.A. Deo, Id. C.P.O. for the respondent nos.1 to 3.**

**Shri T.V. Rathod, holding for Shri S.M. Bhangde for respondent no.4.**

**Adv. S.N. Gaikwad for the respondent nos.5 & 6.**

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**AND**

**O.A. No. 568 of 2022 (D.B.)**

- 1) Ku. Swati D/o Gangadhar Sanap,  
Aged about 26 years,  
Occ. Student,  
R/o Mukkam Post Dhar,  
Taluka & Dist. Parbhani.
- 2) Ku. Priti D/o Maroti Kharat,  
Aged about 22 years,  
Occ. Student,  
R/o Post Wasan Taljat, Washan,  
Tah. Washan, Dist.Sangli-416402.
- 3) Ku.Divya D/o Gajanan Matre,  
Aged about 25 years,  
Occ. Student,  
R/o Mukkam Post Injori,  
Tah.Manora, Dist. Washim-444404 (Mah.).

**Applicants.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. The Add. Director General of Police,  
Training and Special Force,  
Maharashtra State, Mumbai.

3. Police Commissioner, Nagpur City,  
District Nagpur.
4. The Director, Mahapariksha,  
Maharashtra Information Technology  
Corporation Ltd (MAHA IT),  
Office at Dinshaw Vacha Road,  
Near KC College, Church Gate,  
Mantralaya, Mumbai-400032.

**Respondents**

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**Shri Moon, Id. Advocate for the applicants.**

**Shri S.A. Deo, Id. C.P.O. for the respondent nos.1 to 3.**

**Shri T.V. Rathod, holding for Shri S.M. Bhangde for respondent no.4.**

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**Coram :- Hon'ble Shri Justice Vinay Joshi, Member (J) &  
Hon'ble Shri Nitin Gadre, Member (A)**

**Dated :- 24.03.2025.**

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**ORAL JUDGMENT**

**[Per :- Justice Vinay Joshi, Member (J)]**

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Heard finally with the consent of both learned counsel.

2. Principal challenge in this batch of petition is to the Rule 9 (2) of the Maharashtra Assistant Police Sub Inspector Driver, Police Hawaldar Driver, Police Naik Driver, Police Constable Driver (Recruitment) Rules, 2019 and the applicants' disqualification in the recruitment process for filling the post of Police Constable Driver at Bhandara, Wardha and Nagpur. Submissions were advanced in support of challenge to the Rule 9 (2) of the Rules of 2019, and applicants'

eligibility on account of Physical Test. All the applicants did not obtain qualifying marks in the Physical Test particularly in “Running Test”. Rule 9 (2) states that Physical Test shall be of 50 marks and the candidate shall secure minimum 50% marks in said test. Since, all the candidates got lesser marks in Physical Test than the requirement of 50%, they have been disqualified from the process. Being aggrieved by the said disqualification, the applicants have raised dual challenge, firstly, to rule 9 (2) of the Rules mandating to secure minimum of 50% marks in the Physical Test, secondly the less score in the 800 metres Running Test.

3. For the purpose of quick appreciation particulars of each candidate have been given in following tabular forms:-

Sr. Nos.	O.A. Nos.	Recruitment	Name of the applicants	Marks Obtained	
				Running Test	Short Put Test
1.	1116 of 2021	Bhandara	Vaishnavi Shankar Choudhari	0	20
2.	759 of 2022	Wardha	Shubhangi Janrao Wadde	10	8
3.	568 of 2022	Nagpur	Ku. Swati Gangadhar Sanap	0	8
			Ku. Priti Maroti Kharat	0	12
			Ku. Divya Gajanan Matre	0	16
4.	545 of 2022	Nagpur	Nayana Babanrao Katrojar	0	8
			Manjula Naresh Rathod	0	12
			Reshma Vivekanand Khobragade	0	16
			Gangasagar Shamrao Lekule	0	12
			Ku. Darshana Dhirendra Sawaithul	0	16

4. In response to the advertisement for recruiting the post of “Police Constable Driver” the applicants have filled online application form in respective districts in Female Category. Applicants have cleared Written Examination & Driving Test. They have been called for Physical Test which is divided into two parts, one is 800 meters running for female and second was Shot Put. Running test was consisting of 30 marks whilst Shot Put Test was of 20 marks. All the applicants have appeared for both tests, however, they did not secure requisite minimum 50% marks i.e. 25 marks in Physical Test resulting into disqualification.

5. It is argued that all the applicants have fared in Short Put test by obtaining sizeable marks. Most of them have obtained more than 10 marks out of 20 in Shot Put test. However, each of them did not get the requisite marks in Running Test which brought down total marks below the requirement of 25 marks. Barring candidate namely Shubhangi, zero marks have been allotted in Running Test to the rest applicants. According to the applicants it is quite impossible to get zero marks out of 30 in Running Test and thus the allotment of marks is quite capricious and arbitrary. It is argued that when these applicants have fared in Short Put Test and obtained sizable marks, it is not possible that they would get zero marks in Running Test. It is submitted that applicants have efficiently participated in the Running Test, therefore, allotment of zero

marks is totally improbable. It is submitted that when the candidate is quite fair in Shot Put Test than it is impossible to get zero marks in Running Test, as they may get atleast some marks in Running Test.

6. In response, Id. C.P.O. has filed affidavit-in-reply justifying allotment of zero marks to these candidates. He has produced a communication dated 15.11.2019 explaining the mechanism for allotment of marks in the Running Test. It contains the time slot and allotment of marks for said slab. We wish to reproduce the said chart for the purpose of quick appreciation.

**महिला उमेदवार (८०० मीटर धावणे)**

८०० मीटर अंतर पूर्ण करण्यास लागलेला कालावधी	द्यावयाचे गुण
२ मि. ५० सेकंद किंवा त्यापेक्षा कमी.	३०
२ मि. ५० सेकंदापेक्षा जास्त परंतु ३ मि. ०० सेकंद किंवा त्यापेक्षा कमी.	२७
३ मि. ०० सेकंदापेक्षा जास्त परंतु ३ मि. १० सेकंद किंवा त्यापेक्षा कमी.	२४
३ मि. १० सेकंदापेक्षा जास्त परंतु ३ मि. २० सेकंद किंवा त्यापेक्षा कमी.	२१
३ मि २० सेकंदापेक्षा जास्त परंतु ३ मि. ३० सेकंद किंवा त्यापेक्षा कमी	१८
३ मि. ३० सेकंदापेक्षा जास्त परंतु ३ मि. ४० सेकंद किंवा त्यापेक्षा कमी.	१५
३ मि. ४० सेकंदापेक्षा जास्त परंतु ३ मि. ५० सेकंद किंवा त्यापेक्षा कमी.	१०
३ मि. ५० सेकंदापेक्षा जास्त परंतु ४ मि. ०० सेकंद किंवा त्यापेक्षा कमी.	०५
४ मि. ०० सेकंदापेक्षा जास्त.	००



7. The chart indicates that if candidate requires more than four minutes to complete 800 meter Running then zero marks shall be allotted. Thus, we find that a logical methodology has been applied in allotment of marks for Running Test. It reveals that soon after the completion of Running Test a sheet was prepared showing the time required by the candidate to complete the task. The said fact is not denied by the applicants. However, a lame attempt has been made by stating that the candidates were orally assured that they would qualify. It is not possible to accept said submission. If the candidate disputes the timing mentioned in the chart, then he/ she ought to have ventilate the grievance in writing then and their only, if not in proximity. It is brought to our notice that only one candidate has made a representation on 04.05.2022; disputing the timing and allotment of marks in Running Test. However, said belated communication that too after declaration of result needs no consideration. Physical Test i.e. Running Test was held somewhere in the month of October, 2021 and for next six months; no grievance was made which itself shows that filing of representation is an afterthought action. Moreover, besides one candidate none of the above has made written representation.

8. Though, it is submitted that these candidates were very swift, efficient and quick in running, however, Tribunal cannot assume

the role of examiner to deviate from the timing recorded by the Authority in presence and under signature of the candidate. We fail short to understand the submission as to how on mere assumption we could say that the candidates have faired in the Running Test and deserve more marks. The said exercise is beyond our comprehension and obviously not permissible at all. There is no gain saying that if a candidate faired in one test, he must be efficient in another test. One may get good score in one area but may not be upto the mark in another area or test. Thus, without material we cannot assume that candidates who faired in Shot Put must have been faired in the running too. Therefore, submission to that effect is wholly unacceptable.

9. Coming to the second challenge about Rule 9 (2) of the Rules of 2021. In exercise of the powers conferred by Clause 'B' of Section 5 of the Maharashtra Police Act, rules of recruitment to the various posts including Police Constable Driver have been framed. Rule 9 pertains to Physical Test consisting of 50 marks. The criteria for Male Candidate and Female Candidate are some what different. We are concerned with the female candidates for whom their shall be Physical Test of 800 meters Running of 30 marks and Shot Put Test of 20 marks totalling 50 marks.

10. The real dispute/challenge is about the minimum passing requirement as has been incorporated under Clause 9 (2) of the rules

which reads that, candidates shall have to secure a minimum of 50% marks in “Physical Test”. It is argued that the said rule is unjust inequitable and of discriminatory nature. The department in its wisdom has fixed minimum standard so as to get the efficient candidates. It is settled law that Tribunal cannot fix or substitute the standards required for the post. It is not the case that in the midst of the process some new rules have been introduced but the recruitment process itself was carried inconsonance with rules.

11. Ld. C.P.O. has strongly objected the challenge to the rule by submitting that when the candidate has participated in the process, on failure he cannot challenge the rules as it is deemed to be waived. In this regard, reliance is placed on the decision of Supreme Court in case of **Madras Institute of Development Studies and Another Vs. K. Sivasubramaniyan & Ors. (2016) 1 SCC 454**. In said decision it is observed that without raising objection to the advertisement and rules, if the candidate participated in the selection process and raises challenge only after he was not selected, then he cannot raise such a challenge. Herein the applicants have consciously taken part in the selection process. They have appeared in the Physical Test. They were quite aware about the rules mandating minimum qualifying requirement, still they did not raise grievance till the result was declared. In the circumstances,

the failure to raise challenge at initial stage would debar them from raising it at belated stage. The above decisions would squarely apply to the facts of this case. Thus, in above peculiar facts challenge to the Rule 9 (2) of the Rule 2001 cannot be entertained.

12. It is argued that the advertisement does not bare the condition of minimum passing marks hence it is unjust. On close examination of the advertisement, it reveals that there is specific reference that the advertisement has been issued in terms of rules of 2019. Ld. counsel for the applicants would submit that there is no specific mention in the advertisement about nature of Physical Test and passing requirement. He would submit that though rules prescribe so, however, the applicants were unaware about the rules. It is impossible to accept the submission, since the advertisement is clear enough to convey that Physical Eligibility Examination would be in accordance with rules of the year 2019. Clause 18 of the advertisement makes specific reference in that regard. Moreover, rules of 2019 are within public domain hence one cannot plead ignorance about the rules. There is no dispute that after introduction of rules, the advertisement has been issued. Thus, non-inclusion of detailed process of Physical Eligibility in the advertisement is of no consequence.

13. Ld. counsel for the applicants has attracted our attention to one another recruitment process for the post of Police Constable. He would submit that in said recruitment process certain relaxation was given to the candidates while determining physical standard. However, admittedly the said recruitment process was in terms of old rules of the year 2011. Besides that we see no relevance about some other recruitment process conducted under different rules and, therefore, the said submission holds no merit.

14. Ld. counsel for the applicants has submitted that as per Clause No. 16.2.1 of the advertisement 30% posts are reserved for female candidates. The respondent has not filled the female candidates in terms of quota fixed under female category. However, the said clause itself is clear that, in case the female candidates are not available then the rest would be filled from the male candidate. Besides that, the applicants cannot agitate said ground because unless candidate passes/ clears the examination/ test he cannot be considered, though posts are falling vacant. The said submission could have been considered, if applicants have qualified in all tests and examinations.

15. In the alternative ld. counsel for the applicants would submit that though applicants' performance was excellent in Running Test, less marks/ zero marks have been allotted and thus respondents be directed

to conduct re-test. In support initial reliance is placed on the decision of Madurai Bench of Madras High Court in W.P. (MD) No. 15516 of 2017 in case of **T. Thavamari Vs. Tamil Nadu Uniformed Services, delivered on 21.08.2017**. In said case Physical Efficiency Test was taken without sufficient light and the time taken by candidates was not recorded. In such a peculiar fact re-test was directed. Secondly, reliance is placed on the decision of Rajasthan High Court, Bench at Jodhpur in D.B. Civil Special Appeal (Writ) No. 1732/2018 in case of **Thawara Ram Vs. State of Rajasthan, decided on 14.11.2018**. In said case, reasonable time was not given to the candidates to prepare for Physical Examination. In such peculiarity of facts, opportunity was given. The case in hand is quite distinct wherein no such grievance was ventilated. The applicants have also relied on the decision of Central Administrative Tribunal, Chennai Bench in O.A. No. 93/2022 in case of **UT of Puducherry Vs. Bhavani R, decided on 09.02.2024**. However, considering the pandemic situation opportunity was given which is not the case.

16. Undisputedly, it is a recruitment process of the year 2019. Physical Test was conducted in the month of October, 2021. After gap of three years re-test cannot be held that too for no reason. If such course is adopted then it would cause injustice to several other candidates who have failed in Physical Examination and submitted to the result.

Moreover, one may demonstrate better performance after three years which is of no use. The assessment must be on the date of examination and not after lapse of few years and, therefore, it is not possible to accept said submission.

17. In view of above discussion, rejection of applicants' candidature is well justified. In the circumstances, **all original applications, being devoid of merit, stands rejected. Accordingly, C.A. No. 216/2022 is disposed of.** No order as to costs.

**(Nitin Gadre)**  
**Member(A)**

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Dated – 24/03/2025

**(Justice Vinay Joshi)**  
**Member (J)**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J)  
& Hon'ble Member (A).

Judgment signed : 24/03/2025.

on and pronounced on