

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 879 OF 2024**

DISTRICT : AURANGABAD

1. Omkesh Uttamrao Jadhav,  
Age:- 29, Occupation: Student  
Address: At Dhanora, Post Kavatha)  
Tal: Kandhar, Dist: Nanded-431746
2. Rutuja Babasaheb Patil  
Age:- 28, Occupation:- Government Servant  
Address: Mahakali Super Market,  
Phonda Road, Vaibhavwadi, Dist- Sindhudurg
3. Rohan Digambar Balgude  
Age:- 31 Occupation:- Tax Assistant  
Address: Awachat Estate, Patas road,  
Baramat, Tal- Baramati,  
Dist- Pune 413102
4. Tejaswini Digambar Balgude  
Age:- 29, Occupation:- Student  
Address: Awachat Estate Patas road,  
Baramati Tal- Baramati,  
Dist- Pune 413102.
5. Priyanka Ashok sangale  
Age:- 23, Occupation:- student  
Address: at post yelapne tah shrigonda  
Dist ahmadnagar pin code-414701
6. Rohit Deshmukh,  
Age:- 26, Occupation:- Student  
Address: Lokmanya Nagar,  
Parbhani - 431401
7. Hanumant Sudam More  
Age:- 30, Occupation:- student (mpsc)  
Address:- At. Mamdapur post. Pangri  
Tal. Barshi Dist. Solapur
8. Akshaya Suryakant Patil  
Age:- 29, Occupation:- Student  
Address:- Plot no. 103 Datta Nagar,  
Shinganapur Road, Kolhapur-416010
9. Sourabh Kalyan Survase  
Age – 25, Occupation- Graduation

Address- Sangli Road, Aasaranagar,  
Ichalkaraji

10. Parag Pandurang Jadhav,  
Age 28, Occupation: STUDENT  
Address: A/T-Palashi Tal-Khanapur,  
Dist-Sangli PIN-413307
11. Saurabh Shahaji Patil  
Age: 24, Occupation: BE Mechanical  
Address: at post:-Bembale  
Tal-Madha Dist:-Solapur
12. Vaibhav Rajaram Ingale  
Age 30, Occupations: BE Mechanical  
Address: At post:-Bembale  
Tal: Madha Dist:-Solapur
13. Rahul laxman Jagdale  
Age 33, Occupation: Farmer  
Address: hiremath plot, Agalgaon road,  
barshi, Dist-solapur
14. Advaya Sarjerao Patil  
Age 34  
Occupation: STUDENT  
Address: Krushnai Niwas, Hadpasar, Pune.
15. Amit Gokul Lokare  
Age: 28  
Occupation: Student  
Address: At Post Salse,  
Taluka- Karmala,  
District - Solapur
16. Utkarsha Rambhau Kadam  
Age:- 26, Occupation: Student  
Address: Narayan Peth, Pune
17. Sachin Machhindra Jadhav  
Age:- 31, Occupation:- Student  
Address: A/p Kem taluka- Karmala,  
District-Solapur
18. Mangesh Gautamrao Shinde  
Age - 35, Occupation - Student  
Address - Chapadgaon,  
Taluka - Karjat, Dist - Ahilya Nagar.

19. Harshala Hindurao Patil  
Age-26, Occupation --  
Address A/P- Nadhawade  
Tal- Bhudargad Dist- Kolhapur
20. Mule Sudarshan Vaijinath  
Age-: 29, Occupation-: Student  
Address: At Shendra Mide,  
Tal and Dist: Ch.Sambhajinagar
21. Abhijeet Sandipan Jadhav  
Age -29, Occupation - Student  
Address- At Dahegaon Khurd Post Tadhadgoan  
TQ Ambad, Jalna.
22. Sumit Appasaheb Harde  
Age-: 28 Occupation-: Job  
Address: Shaniwar Peth. -- **Applicants**

**VERSUS**

1. Maharashtra Public Service  
Commission, Through the Secretary,  
Trishul Gold Field,  
Plot No. 34, Sector 11,  
Opp. Sarovar Vihar,  
Belapur CBD,  
Navi Mumbai - 400614
2. The State of Maharashtra  
Through The Secretary,  
General Administration Department,  
Mantralaya, Mumbai- 400032. -- **Respondents**

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APPEARANCE : Shri Praveen B. Kamble, learned counsel for the applicant.

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

: Shri S.J. Salgare, learned counsel for respondent No. 1.

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**CORAM : HON'BLE JUSTICE V.K. JADHAV, VICE CHAIRMAN  
AND  
: HON'BLE VINAY KARGAONKAR, MEMBER (A)**

**DATE : 03.04.2025**

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**ORAL ORDER**

[Per : Shri Vinay Kargaonkar, Member (A)]

1. Heard Shri Praveen B. Kamble, learned counsel for the applicant, Shri V.G. Pingle, learned Presenting Officer for respondent authorities and Shri S.J. Salgare, learned counsel for respondent No. 1

**2. Pleadings and Arguments by the Applicants**

(i) The learned counsel for the applicants, Shri Praveen B. Kamble, submitted that the applicants are aggrieved by the selective and arbitrary restriction imposed on them by the respondents, which prevents them from shifting their reservation category from SEBC to OBC despite possessing valid OBC certificates. The applicants contend that this restriction violates the principles of natural justice and equality enshrined in the Constitution.

(ii) The counsel elucidated that the Maharashtra Public Service Commission (MPSC) issued Advertisement No. 414/2023 dated 29.12.2023 for conducting Maharashtra Gazetted Civil Services Combined Preliminary Examination, 2024 for recruitment to various Group A and Group B posts. The applicants initially applied for these posts under either Open or EWS category during the application window from 05.01.2024 to 25.01.2024.

(iii) Subsequently, on 26.02.2024, the State Government issued a Government Resolution providing for SEBC reservation, which was specifically meant for the Maratha community fulfilling the basic criteria for SEBC reservation. Following this, the MPSC issued a Corrigendum dated 08.05.2024, allowing candidates to change their category from Open/EWS to SEBC. The applicants availed this opportunity

and shifted their category from Open/EWS to SEBC during the period from 09.05.2024 to 24.05.2024.

(iv) It was further submitted that prior to the publication of the advertisement, the Maharashtra Government had issued a Resolution dated 31.10.2023, which provided that candidates from the Maratha community who had relevant lineages of the Kunbi community would be considered under Kunbi community and accordingly could claim OBC category reservation. The applicants were in search of such lineages and were awaiting the issuance of OBC certificates.

(v) The learned counsel emphasized that when the MPSC issued another Corrigendum dated 30.05.2024, allowing candidates from Open/EWS categories to claim OBC reservation if they had found lineages of Kunbi community, the applicants who had already shifted to SEBC category were not permitted to avail this opportunity, despite having valid OBC certificates. This created a situation where candidates who remained in Open/EWS categories were given the privilege to claim OBC reservation, but the applicants who had already shifted to SEBC were denied the same opportunity.

(vi) The counsel further highlighted that the MPSC issued yet another Corrigendum dated 12.07.2024, extending the opportunity for candidates from Open/EWS categories to claim either SEBC or OBC reservation from 15.07.2024 to 14.08.2024. However, even in this instance, the applicants who had previously shifted to SEBC category were not allowed to change to OBC category, despite possessing valid OBC certificates issued before the final date of 14.08.2024.

(vii) It was vehemently argued that this selective discrimination in allowing only certain candidates to claim

OBC reservation while denying the same opportunity to the applicants has caused grave injustice. The applicants made several representations to both respondents, but no cognizance was taken of their grievances.

(viii) Regarding the respondent's contention that some applicants did not claim Non-Creamy Layer (NCL) status as 'Yes', the counsel submitted that these applicants already possessed SEBC certificates which included their NCL status, making them eligible for OBC reservation without having to separately claim NCL status as 'Yes'.

(ix) The counsel submitted that by not allowing the applicants to claim OBC reservation, for which they are eligible, the respondents have not only caused grave injustice but have also nullified the purpose of the Government Resolution dated 31.10.2023, which provided OBC reservation for those with Kunbi lineages. This selective discrimination is arbitrary, unreasonable, and violative of Article 14 of the Constitution.

(x) In conclusion, the learned counsel for the applicants prayed that the Tribunal direct the respondents to allow the applicants to change their category from SEBC to OBC and to open the link for claiming OBC category for the applicants, along with extending the date for changing the reservation category.

### **3. Arguments on behalf of the Respondents**

(i) The learned presenting officer and the special counsel for the respondent authorities, submitted that the actions of the respondents were in strict compliance with the Government Resolutions and there has been no arbitrary or discriminatory treatment of the applicants.

(ii) The respondents submitted that following the issuance of the advertisement for Maharashtra Civil Services Preliminary Examination-2024 on 29.12.2023, the Government of Maharashtra issued a Government Resolution dated 27.02.2024, conferring SEBC reservation with effect from 26.02.2024. Accordingly, MPSC sought revised requisitions for the concerned posts and published a Corrigendum dated 08.05.2024, granting permission to candidates to change their option from Open/General to SEBC and from EWS to SEBC.

(iii) It was further submitted that as per the Government's opinion vide letter dated 28.05.2024, MPSC issued another Corrigendum dated 30.05.2024, allowing candidates to change their option from Open/General to OBC category and from EWS category to OBC category during the period from 31.05.2024 to 07.06.2024.

(iv) The respondents highlighted that some students could not obtain SEBC or OBC certificates due to certain difficulties and chose to remain in EWS category. MPSC sought the Government's opinion on this issue, and the Government, vide letter dated 12.07.2024, clarified that candidates who have received SEBC or OBC certificates as per the SEBC Act dated 26.02.2024 or Government Resolution dated 07.09.2023, respectively, would not be eligible for EWS benefits, as EWS benefits are not permissible for candidates from SEBC/OBC or any reservation category.

(v) Pursuant to this opinion, MPSC issued a Corrigendum dated 12.07.2024, giving an opportunity to candidates from Open category and EWS category to change their option to SEBC or OBC during the period from 15.07.2024 to 14.08.2024.

(vi) The respondents further submitted that since SEBC category benefits are available only to candidates belonging to the Non-Creamy Layer (NCL), a Corrigendum dated 24.07.2024 was published, instructing candidates who had claimed SEBC or OBC category to claim NCL within the period from 29.07.2024 to 14.08.2024.

(vii) It was pointed out that out of the 22 applicants, 8 had changed their claim from Open/General category to SEBC category, but only 5 of them claimed NCL as 'Yes', while the remaining 3 did not. Similarly, out of the 14 applicants who changed their claim from EWS category to SEBC category, only 7 claimed NCL as 'Yes', while the remaining 7 did not.

(viii) The learned counsel for respondent No. 1 emphasized that as per the Corrigendums issued by MPSC, the opportunity to change the category option was given only to candidates from Open/General category and EWS category to change to SEBC or OBC category. There was no provision for candidates who had already opted for SEBC category to change to OBC category.

(ix) It was further submitted that the Maharashtra Public Service Commission is merely an implementing agency that conducts examinations as per the rules and regulations formulated by the Government of Maharashtra. The decision to grant liberty to candidates to change their category from SEBC to OBC rests solely with the Government of Maharashtra, and MPSC cannot take such a decision on its own.

(x) In conclusion, the respondents prayed that the application be dismissed as the actions of the respondents were in accordance with the Government Resolutions and no discrimination or injustice has been caused to the applicants.



**4. Reasoning and conclusions:**

(A) The present Original Application raises a significant question regarding the principles of natural justice and equal treatment in the context of reservation policies implemented by the State Government and the Maharashtra Public Service Commission (hereinafter referred to as "MPSC"). The applicants have approached this Tribunal aggrieved by the denial of opportunity to change their reservation category from SEBC to OBC despite possessing valid certificates, while candidates from Open/EWS categories were allowed to claim either SEBC or OBC reservation.

(B) The factual matrix of the case is largely undisputed. The MPSC published Advertisement No. 414/2023 dated 29.12.2023 for conducting Maharashtra Gazetted Civil Services Combined Preliminary Examination, 2024. The applicants initially applied under either Open or EWS category. Following the Government Resolution dated 26.02.2024 implementing SEBC reservation, the applicants shifted from Open/EWS to SEBC category as per the Corrigendum dated 08.05.2024 issued by MPSC. Subsequently, through Corrigendums dated 30.05.2024 and 12.07.2024, MPSC allowed candidates from Open/EWS categories to claim OBC reservation if they had relevant Kunbi lineages as per Government Resolution dated 31.10.2023. However, the applicants, who had already shifted to SEBC category, were denied the opportunity to change to OBC category despite possessing valid OBC certificates.

**5. Points for Determination**

The principal issue that arises for consideration is whether the denial of opportunity to the applicants to change their reservation category from SEBC to OBC, while allowing such opportunity to candidates

from Open/EWS categories, is arbitrary, discriminatory, and violative of the principles of natural justice and equality.

**6. *Analysis and Reasoning***

(i) It is a well-established principle of law that Article 14 of the Constitution of India guarantees equality before law and equal protection of laws to all persons. This fundamental right prohibits class legislation but permits reasonable classification, provided such classification is founded on an intelligible differentia having a rational nexus to the object sought to be achieved. The Supreme Court in *E.P. Royappa v. State of Tamil Nadu* (1974) 4 SCC 3 held that equality is a dynamic concept with many aspects and dimensions, and it cannot be cribbed, cabined, and confined within traditional and doctrinaire limits. The Supreme Court further expanded this principle in *Maneka Gandhi v. Union of India* (1978) 1 SCC 248, observing that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment.

(ii) Applying these principles to the present case, this Tribunal finds that the classification made by the respondents between candidates who initially opted for SEBC category and those who initially opted for Open/EWS categories, for the purpose of allowing change to OBC category, lacks rational nexus with any legitimate objective. Both groups of candidates belong to the same class – eligible OBC certificate holders as per Government Resolution dated 31.10.2023. The only distinction is the timing and sequence of their category changes, which cannot form the basis of a reasonable classification under Article 14.

(iii) The respondent MPSC have contended that they are merely implementing agencies and that there was no provision

for changing category from SEBC to OBC. However, this Tribunal finds this argument untenable for two reasons. First, administrative convenience cannot override constitutional rights. Second, when the respondents could amend their procedure thrice through Corrigendums to accommodate candidates from Open/EWS categories, there appears no justifiable reason why similar accommodation could not be extended to the applicants.

(iv) It is pertinent to note that the Government Resolution dated 31.10.2023 was intended to benefit all eligible candidates with Kunbi lineages, without any distinction as to their previous category choices. By selectively restricting the applicability of this benefit, the respondents have effectively created two classes of eligible OBC candidates – those who can claim the benefit and those who cannot – based merely on their previous category choices. This artificial distinction runs contrary to the principle of reasonable classification under Article 14 and amounts to arbitrary state action. The essence of equality lies in ensuring that persons similarly circumstanced shall be treated alike, both in privileges conferred and liabilities imposed. In the present case, both the applicants and the candidates from Open/EWS categories who were allowed to claim OBC reservation are similarly circumstanced in terms of their eligibility for OBC reservation. Treating them differently without any rational basis contravenes this essential principle of equality.

(v) Furthermore, the procedural requirements must be interpreted in a manner that advances substantive rights rather than defeats them. In the present case, the procedural requirement of not allowing category change from SEBC to OBC is defeating the substantive right of the applicants to

claim their legitimate reservation under OBC category, despite possessing valid certificates.

(vi) With regard to the respondents' contention that some applicants did not claim NCL status as 'Yes', this Tribunal accepts the explanation provided by the applicants that their SEBC certificates already included their NCL status, making separate claim unnecessary. The substance must prevail over form, and the actual eligibility of the applicants for OBC reservation should be the determining factor, not procedural formalities.

(vii) The respondents have also argued that the decision to allow change from SEBC to OBC category rests solely with the Government of Maharashtra. It is noteworthy that despite being made a party to this Original Application, the Government of Maharashtra (Respondent No. 2) has not filed any reply contesting the applicants' claims. In the absence of any contrary stance by the State Government, and given that the applicants possess valid OBC certificates issued by the Government itself, there appears no tenable reason to deny them the benefit of OBC reservation.

(viii) It is also relevant to consider that this is the last examination under the old pattern of objective-type exam, as submitted by the applicants. Denying them the opportunity to claim their legitimate reservation category could cause irreparable harm to their career prospects, especially when they have invested significant time and effort in preparation for this particular examination pattern.

(ix) In light of the foregoing discussion, this Tribunal holds that the denial of opportunity to the applicants to change their reservation category from SEBC to OBC, while allowing such

opportunity to candidates from Open/EWS categories, is arbitrary, discriminatory, and violative of Article 14 of the Constitution and the principles of natural justice.

7. Accordingly, the Original Application is allowed with the following directions:

(i) The respondents are directed to allow the applicants to change their reservation category from SEBC to OBC by opening the necessary link for a period of 7 days from the date of this order.

(ii) The applicants shall be permitted to claim OBC reservation based on their valid OBC certificates, subject to fulfilment of other eligibility criteria.

(iii) The respondents shall ensure that no prejudice is caused to the applicants in the ongoing selection process on account of this category change.

(iv) The respondents shall complete the aforementioned process expeditiously, considering the urgency of the matter as the main examination is due.

No order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 03.04.2025**

O.A.NO. 879-2024-DB-HDD-selection process