

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.364 OF 2025**

**DISTRICT : Pune  
SUB : Appointment**

Shri Vikrant Dnyaneshwar Vitole )  
Age 39 Years, Occu: Nil )  
R/at 504, Royal Grace, Aundh Road, )  
Shewale Hospital, Kirkee, )  
Pune 411020. ).....**Applicant**

V/s

The Secretary, MPSC, Trishul Gold )  
Field, Plot No.34, Sector 11, Opp. )  
Sarovar Vihar, Belapur CBD, Navi )  
Mumbai 400614. ).....**Respondent**

Shri K. R. Jagdale, learned Advocate for the Applicant.

Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent.

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman.  
Hon'ble Shri A. M. Kulkarni, Member (A)

Dated : 08.04.2025

Per : Hon'ble Shri M. A. Lovekar, Vice-Chairman.

**JUDGEMENT**

Heard Shri K. R. Jagdale, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent, finally by consent.

2. On 03.11.2023 the Applicant submitted application before the District Women and Child Development Officer, Pune for issue of 'Orphan Certificate' who forwarded the proposal to Chairman, Child Welfare Committee No.2, Pune, and Divisional Deputy Commissioner, Women and Child Development, Pune Division, Pune on 17.11.2023 and 26.12.2023, respectively.

3. In response to the Advertisement dated 29.12.2023 issued by the Respondent, the Applicant submitted application online on 08.01.2024 under 'SC Orphan' category giving therein various preferences. In the application he stated that proof regarding he being 'Orphan' was uploaded. He further stated that he desired to avail advantage of reservation of 'Orphan' and in support of his claim, he had uploaded 'Orphan Certificate No.11565' issued on 25.01.2023. The Applicant had uploaded only the proposal and not 'Orphan Certificate'. At this point of time, he did not possess 'Orphan Certificate'. He filled pre-examination form from 'SC Orphan' category. In May, 2024 he collected his 'Orphan Certificate' stated to have been issued on 29.12.2023. On 06.07.2024, he updated his profile on the website of MPSC by adding to it 'Orphan Certificate' dated 29.12.2023. He appeared for pre-examination on 01.12.2024. His name did not figure in the list of qualified candidates. By the impugned communication, he was informed that his claim for reservation from 'Orphan' category was rejected in scrutiny of documents as he had not uploaded 'Orphan Certificate' as per instructions contained in Publication dated 17.08.2021. Hence, this Original Application impugning communication dated 05.03.2025.

4. Publication dated 17.08.2021 *inter-alia* states -

“महाराष्ट्र लोकसेवा आयोगाची नव्याने विकसित करण्यात आलेली ऑनलाईन अर्जप्रणाली <https://mpsconline.gov.in> या संकेतस्थळावर स्थापित करण्यात आली आहे. सदर नव्याने विकसित अर्जप्रणालीद्वारे यापुढील काळात आयोगामार्फत प्रसिध्द होणा-या विविध भरतीप्रक्रियांच्या जाहिरातींच्या अनुषंगाने अर्ज स्विकारले जातील. तसेच अर्जप्रणालीद्वारे अर्ज सादर करताना अर्जाद्वारे केलेल्या दाव्यांच्या अनुषंगाने वैध प्रमाणपत्रे सादर करणे अनिवार्य करण्यात येत आहे.”

*(Emphasis supplied)*

5. Learned Presenting Officer invited our attention to the following clauses of Advertisement dated 29.12.2023 –

“६.२२.४ : पूर्व परीक्षेच्या अर्जाद्वारे अनाथ आरक्षणाचा दावा केलेल्या उमेदवारांनी दिनांक ०६ सप्टेंबर, २०२२, दिनांक ०६ एप्रिल, २०२३ आणि दिनांक १० मे, २०२३ रोजीच्या शासन निर्णयाद्वारे विहित करण्यात आलेल्या कार्यपद्धतीनुसार विहित नमुन्यातील अनाथ प्रमाणपत्र व महाराष्ट्र राज्याचें अधिवास प्रमाणपत्र आयोगाकडून निश्चित करण्यात येणाऱ्या विहित कालावधीत सादर करणे आवश्यक राहिल. अन्यथा अनाथ आरक्षणाचा दावा विचारात घेतला जाणार नाही.

१०.२ विहित कागदपत्रे/प्रमाणपत्रे अपलोड करणे :-

(एक) प्रोफाईलद्वारे केलेल्या विविध दाव्यांच्या अनुषंगाने पूर्व परीक्षेकरीता अर्ज सादर करताना खेळाडू, दिव्यांग, माजी सैनिक व अनाथ आरक्षणाचा दावा करणाऱ्या उमेदवारांव्यतिरिक्त अन्य उमेदवारांना कोणतीही कागदपत्रे अपलोड करण्याची आवश्यकता नाही.”

6. The principal contention of the Applicant is that he had applied for ‘Orphan Certificate’ well in advance and for delay in issuing the same, he cannot be held responsible. In support of this contention, the Applicant has relied on the following judgments :-

(1) ***Dolly Chhanda V/s Chairman, JEE & Ors., AIR 2004 SC 5043.*** In this case, it is held :-

*“The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification*

*on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.*

(2) The judgment of the Hon'ble Bombay High Court dated 14.02.2024 in **W.P. No.15613/2022 (Mrs Shaila Tanaji Patil V/s MPSC and 5 others)**. In this case, it is held –

*“The petitioner is justified in relying upon the decision of the Tribunal in O.A. No.635 of 2018 dated 19th November 2018 of Mumbai Bench and decision of the Tribunal in O.A. No.780 of 2018 dated 1 February 2019 of Nagpur Bench wherein on a very similar situation, the Tribunal had allowed the application of the candidates. The petitioner is also justified in placing reliance on the decision of the Supreme Court in case of **Dheerender Singh Paliwal (supra)**. The ratio of the Supreme Court decision is that if a candidate is otherwise found to be meritorious and merely because there is some delay in filing the documents in support of his educational qualification which was filed before the date of selection, then such a candidate should not be considered ineligible at the time of deciding for selection for the post. In our view, the*

*ratio of the decision squarely applies to the facts of the present petitioner inasmuch as the petitioner and the respondents were in possession of the sports certificate dated 27<sup>th</sup> February 2010 much prior to the date of the application form, verification certificate of the document dated 27<sup>th</sup> February 2010 was filed at the time of interview and therefore since the same was available much before the selection date and otherwise the petitioner was found to be meritorious, we see no reason why the petitioner should not have been considered for selection to the post of Police Sub-Inspector.”*

(3) **Anisa Arashad Diwan V/s The State of Maharashtra & Ors, 2024 (2) ALLMR 428.** In this case, it is held :-

*“The Petitioner had made an application on 11th December 2020 for issue of caste validity certificate. However, the Scrutiny Committee issued certificate on 26th March 2021 and immediately thereafter on 27th March 2021, the Petitioner submitted the same with Respondent No.5. The Petitioner's admission was confirmed on 29th January 2021. The delay if any in non-submitting the caste validity certificate on or before the admission date certainly cannot be attributed to the Petitioner and therefore even on this count the cancellation of admission by the Respondents cannot be justified.”*

7. In **Dolly Chhanda (supra)** it is held that every infraction relating to delayed submission of documentary proof need not result in rejection of candidature. In **Mrs. Shaila (supra)**, the petitioners were in possession of ‘Sports Certificate’. In **Anisa (supra)** the petitioner possessed ‘Caste Certificate’ but delay was caused in submitting ‘Caste Validity Certificate’. Thus, the facts of **Mrs. Shaila and Anisa (supra)** are distinguishable. In **Dolly Chhanda (supra)** it is held that on facts it has to be determined whether infraction of rule relating to delayed submission of proof would result in rejection of candidature.

8. In the instant case, as per Publication dated 17.08.2021 it was mandatory to upload certificates to support a claim made in the application. The Applicant claimed to be belonging to 'SC Orphan' category but did not upload the certificate to support his claim of being an 'Orphan' which he was duty bound to do as per Clauses 6.22.4 and 10.2 of the Advertisement dated 29.12.2023.

9. The Applicant has further relied on interim order dated 28.03.2025 passed by this Tribunal in **O.A.No.322/2025 (Shri Omkar Angre V/s State of Maharashtra & Ors.)**. In Para 9 of the order, this Tribunal observed :-

*"9. Thus, the applicant has challenged possessing of sports validity certificate and also he is eligible for Group B, C. D. Thus, we direct the respondent no.2-MPSC to allow the applicant to fill up the form and submit it. The MPSC is directed to accept it. However, it is subject to he being otherwise eligible. The applicant will not claim equity on the basis of this particular interim relief."*

These facts are also distinguishable. In the instant case, on the relevant date, the Applicant did not possess 'Orphan Certificate'.

10. The Respondent, on the other hand, has relied on the judgement of the Hon'ble Supreme Court dated 09.10.2023 in **W.P.No.724/2023 (Divya V/s Union of India & Ors.)**. In this case, it was *inter-alia* concluded :

*"i) The candidates claiming benefit of EWS Category for the purpose of CSE-2022, acquire eligibility only if they meet the criterion prescribed by the Central Government in the O.M. dated 19.01.2019 and 31.01.2019 and are in possession of the required Income and Asset Certificate (I&AC), based on the income for the year 2020-21. Further, as required under Rule 28 of the CSE Rules, 2022 read with the O.M. of 19.01.2019 and 31.01.2019 the*

*candidate should have been in possession of the Income and Asset Certificate (I&AC) as on 22.02.2022. Any candidate not in possession of the I&AC in the prescribed format as mentioned herein above cannot claim the benefit of EWS Category. Equally, as required under Rule 13 of the CSE Rules, 2022 at the stage of DAF-I, the document in possession as on 22.02.2022 in the prescribed format, had to be submitted online before the prescribed date. The UPSC was justified in rejecting the candidature of those candidates claiming benefit under the EWS Category if they had submitted their I&AC beyond the stipulated deadline.”*

11. The Respondent has further relied on the judgment of the Hon’ble Supreme Court dated 28.09.2011 in **Civil Appeal Nos.8343-8344/2011 (Bedanga Talukdar v/s Saifudaullah Khan & Ors.)**. In this case, it is held :-

*“It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement.”*

12. Considering facts of the case (dealt with hereinabove in para 8), and law applicable thereto which are discussed above, the Original Application deserves to be dismissed. It is accordingly dismissed with no order as to costs.

**Sd/-  
(A.M. Kulkarni)  
Member (A)**

**Sd/-  
( M. A. Lovekar)  
Vice-Chairman**

Place: Mumbai

Date : 08.04.2025

Dictation taken by: V. S. Mane

D:\VSM\VSO\2025\Judgment 2025\Division Bench\O.A.655 of 2018 appointment.doc