

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**MISCELLANEOUS APPLICATION NO.69/2024
IN
ORIGINAL APPLICATION NO.1048/2023
WITH
MISCELLANEOUS APPLICATION NO.124/2024**

DISTRICT:- AHMEDNAGAR

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1. The State of Maharashtra,
Through its Secretary,
Department of Water Resources,
Mantralaya, Mumbai.
 2. The Chief Engineer,
Department of Water Resources,
Konkan Division, Mumbai.
 3. The Superintending Engineer,
Command Area Development Authority,
Nashik.
 4. The Executive Engineer,
Mula Irrigation Division,
Ahmednagar.

...APPLICANTS

(Original Respondent No.1 to 4 in O.A.)

V E R S U S

Muladharan Prakalpagrath Kruti Samiti,
Ahmednagar,
Through its Secretary,
Add – At Post Karajgaon,
Tq. Newasa, Dist. Ahmednagar-414 105.

..RESPONDENT

(Original Applicant in O.A.)

APPEARANCE : Shri B.R. Survase, learned counsel
for the applicants in M.A. No. 69/2024/
respondents in O.A.

: Shri A.B. Kale, learned counsel for
the respondent Association in M.A. No.
69/2024/ applicants in O.A.No.
1048/2023.

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

Date : 25-07-2024

ORDER

Heard Shri B.R.Survase, learned counsel for applicants in M.A.No.69/2024 (original respondent authorities in O.A.), Shri A.B.Kale, learned Counsel for respondent Association in M.A.No.69/2024 (applicant in M.A.No.124/2024 & O.A.No.1048/2023).

2. By filing the present Misc. Application the applicants/respondents in O.A. have challenged the locus of the applicant – Mula Dharan Prakalpagrasth Kruti Samiti, Ahmednagar (for short ‘the Applicant Association’) – to file the said application before this Tribunal. It is the contention of the respondents that the applicant association cannot invoke the jurisdiction and file such application under Section 19 of the Administrative Tribunals Act, 1985. It has been argued that considering the entire scheme of the Administrative Tribunals Act and rules and regulations framed thereunder, only the service matters are dealt with under the provisions of the Administrative Tribunals Act and Section 19 of the said

Act can be invoked only by a person aggrieved by the order passed by any State authority.

3. It is the contention of the applicants in the M.A., who are respondents in the O.A. that the Association has not provided the particulars demonstrating any vested right in the recruitment, which is to be carried out vide the advertisement issued by the Water Resources Department to which the challenge is raised in the O.A. and hence cannot be said to be an aggrieved person. According to the Applicants in M.A., the Kruti Samiti/Association has no locus to challenge the subject recruitment process. Learned counsel has placed reliance on the following judgments: -

(i) Dr. Duryodhan Sahu and Ors. Vs. Jitendra Kumar Mishra and Ors., (1998) 7 SCC 273;

(ii) Kailas Chand Sharma, etc. Vs. State of Rajasthan and Ors., AIR 2002 Supreme Court 2877;

(iii) Trilok Nath Tikku and Anr., Vs. State of J. and K. and Ors., AIR 1969 Supreme Court 1; and

(iv) Union of India and Ors. Vs. Rubi Mazumdar, (2008) 9 SCC 243;

Taking us through the discussion made by the Hon'ble Apex Court in the case of **Dr. Duryodhan Sahu** (cited supra), it is contended that considering the

parameters laid down in the said matter by the Hon'ble Apex Court, the Applicant Association in no case can be held to be an aggrieved person and, as such, does not have any locus to invoke the jurisdiction of this Tribunal and to file an application under Section 19 of the said Act. Learned counsel submitted that cause which is sought to be espoused by the applicant association cannot be agitated before the Tribunal.

4. As against it, it has been argued by Shri Kale, learned counsel appearing for the Applicant Association that in the advertisement issued by the respondents, since, adequate reservation for the Project Affected Persons has not been provided, Applicant Association has every right to agitate against the said cause on behalf of the Project Affected Persons. It has been brought to our notice that the Association has passed appropriate resolution and has also authorized the Secretary of the Mula Dharan Prkalpagrasth Kruti Samiti, Ahmednagar to take up the cause and file the petition before the Tribunal. Learned counsel submitted that inspite of requiring large number of candidates, who are awaiting employment from the quota of PAPs to file the petitions individually, if the Association is agitating cause on their behalf the

multiplicity of litigation has been in fact avoided and it cannot be said that the Association is incompetent to agitate such cause. Learned counsel has relied upon the following judgments in support of his contention: -

(i) Order passed by CAT Ernakulam Bench in O.A.No.180/00367/2023 dated 13-11-2023.

(ii) Judgment of Hon'ble Supreme Court in case of Jasbhai Motibhai Desai V/s. Roshan Kumar, Haji Bashir Ahmed & Ors. [1976 (1) SCC 671].

5. Referring to the judgment delivered by the Ernakulam Bench of the Central Administrative Tribunal, the learned counsel submitted that identical issue was raised in the said matter before the Ernakulam Bench of CAT but all those objections have been turned down and the O.A. filed by Association therein has been maintained by the Tribunal. Learned counsel pointed out that in the said decision the Tribunal has referred to and distinguished the judgment of the Hon'ble Apex Court in the case of **Dr. Duryodhan Sahu** (cited supra). Learned counsel invited our attention to the discussion made in paragraph 28 of the order passed by the Tribunal wherein the case of **T.S.R. Subramanian & Ors. Vs. Union of India & Ors., (2013) 15 SCC 732** is discussed and has also

reproduced few of the paragraphs from the said judgment. According to the learned Counsel the objection as about the maintainability of the application is liable to be rejected for the said reasons. The judgment of the Hon'ble Apex Court in the case of Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed & Ors., [1976 (1) SCC 671] has also been referred to by the learned counsel.

6. Before advertng to the submissions made by learned counsel appearing for the parties, we deem it appropriate to reproduce hereinbelow certain provisions under the Administrative Tribunals Act, 1985 as well as Rules of procedure framed thereunder, which are thus: -

“3. Definitions,-

(q) “service matters”, in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects-

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or

(v) any other matter whatsoever;”

Section 15 of the Act pertains to the jurisdiction and authority of the State Administrative Tribunals, which reads thus:

“15. Jurisdiction, powers and authority of State Administrative Tribunals-

(1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to –

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause b) of sub-section (1) of section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation [or society] owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation [or society] or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section(3) to local or

other authorities and corporations [or societies] controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (b) of sub-section (1) of this section or a member, person or civilian referred to in clause (b) of sub-section(1) or section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers, and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable.”

Section 19 of the said Act prescribes the procedure for making application to the Tribunals, which reads thus:

“19. Applications to Tribunals – (1) Subject to the other provisions of this Act a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

Explanation - For the purposes of this sub-section, “order” means an order made –

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government ; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a).

Rule 4(5)(b) of the Maharashtra Administrative Tribunals (Procedure) Rules, 1988 provides that, *“Sue jointly permission can be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of the persons on whose behalf it has been filed.”*

7. While considering the issues raised in the present application it is necessary to refer the relevant provisions in the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (“Act of 1999” for short), which reads thus:-

“6. It shall be the duty of the project authority,—

(a) ...

(b) ...

(c) subject to any reservations validly made and subject to availability of posts, to give highest priority in Class III and Class IV category of service on the project establishment, to one member of the affected family nominated by the affected person, if such member is eligible for such employment according to the recruitment rules for such posts :

Provided that, while recruiting a member of the affected family, against such quota, the project authority shall, as far as possible, employ not less than fifty per cent. of such nominees who are affected by the project under execution, as may be prescribed;

Explanation.—For the purpose, of this clause the expression "family" means the spouse, son, married or unmarried daughter or brother or sister or daughter-in-law or grandson, or grand-daughter (which includes son or daughter of the daughter also) of the affected persons, or adopted son or daughter who is residing with and is dependent on such affected person..”

8. It is the grievance of the Applicant Association in the present O.A. that as per the provisions of Section 6 (c) and its proviso, so also Section 10 (6) (b) and (c), it is manifest that the reservation for nominees who are affected by the project under execution can be up to 50% of the posts. In the circumstances, the Applicant Association has prayed for quashment of the advertisement dated 03.11.2023 issued by respondent

no.2 by holding it contrary to the provisions under Section 6 of the Act of 1999. The applicant has also sought direction against the respondents to issue fresh advertisement reserving 50% of the total posts on the project establishment for the PAPs affected by the respective development projects and for that purpose, issue necessary orders.

9. After having considered the provisions referred to by the parties in light of the judgments relied upon by them, there seems no dispute about the proposition that the jurisdiction of the Tribunal can only be invoked by the “Person Aggrieved” as provided under the Rules of 1988 and under Rule 4(5)(b) thereof an Association also may fall within the definition of “Person Aggrieved” provided application filed by such Association shall disclose the Class/Grade/Categories of the persons on whose behalf it has been filed. In other words, the Association shall substantiate and disclose the names/class/grade and category of its said members who are likely to be aggrieved by the decision impugned in the Original Application without which it may not be possible to hold that the said Association has locus to file such application.

10. The applicant Association has preferred the present O.A. through its Secretary, namely, Maruti Sonyabapu Bachkar, whose age is stated to be 65 years. After the original respondents/applicants in M.A. filed an application raising objection as about locus of the Applicant Association, Applicant Association filed M.A.No.124/2024 seeking impleadment of one Yogeshwar Maruti Kolape, R/o. At Watapur, Post Tamaswadi, Tq. Newasa, Dist. Ahmednagar as second applicant in the O.A. Said M.A. is yet to be decided.

11. Applicant Association has filed the O.A. seeking following reliefs:

“A) To quash and set aside the advertisement dt. 03.11.2023 issued by the respondent no.2, by holding it, contrary to the provisions under Sect 6(c) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, and for that purpose issue necessary orders.

B) To direct the respondents to issue fresh advertisement reserving 50% of the total posts on the project establishment for the PAPs affected by the respective development projects and for that purpose, issue necessary orders.

C) Pending final hearing and disposal of this application kindly grant stay to the advertisement

dt. 03.11.2023 issued by the respondent no.2 and for that purpose issue necessary orders.”

12. The advertisement which is sought to be quashed and set aside is issued by the Water Resources Department of the Maharashtra State for filling in about 4497 posts of 14 cadres by direct recruitment to be appointed in seven Circles of the said department. The break-up of the number of posts and the cadre is annexed and published alongwith the said advertisement. The aforesaid advertisement is sought to be quashed alleging that it is contrary to the provisions under Section 6(c) of the Act of 1999. We have reproduced the said provision hereinabove. Having considered the request made in the application as well as the provisions on the basis of which the relief is claimed i.e. the provisions under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and the objections raised on behalf of the respondents about locus of the applicant Association, following question falls for our determination:

“From amongst the members of the Mula Dharan Prkalpagrasth Kruti Samiti, who are the persons affected by the projects under execution in respect of which the impugned advertisement has been published for filling in

the posts on the respective establishments of the said projects ?”

13. When we examined the pleadings in the O.A. from the aforesaid view, it is apparently revealed that, no such particulars are provided by the Applicant Association. In paragraph 2 of the O.A., it is the contention of the Application Association that for Mula Dam Project 889 land holders in 17 villages in the region had to part away with their lands. Applicant Association, however, has not provided further particulars as to who are the persons or nominees from amongst the said land holders in the said villages and by which project under execution are likely to be affected so as to claim reservation as provided under clause 6(c) of the Act of 1999 in the seats to be filled in for the said projects.

14. Learned Counsel for the Applicant Association has heavily relied upon the judgment of the Division Bench of the Hon'ble Bombay High Court Bench at Aurangabad in Writ Petition No.1330/2014. The lands of the petitioners therein have been acquired for establishment of Vasantrao Naik Marathwada Agricultural University at Parbhani. Advertisement was published on 26-08-2009 by said Vasantrao Naik Marathwada Agricultural University,

Parbhani for filling in posts of Group-C and Group-D from PAP category giving 50% reservation for the persons whose lands were acquired for the said University. During the process of recruitment the Government issued subsequent advertisement to fill up only 5% of the posts from the PAPs category. The petitioners therein, therefore sought cancellation of the said advertisement in the aforesaid Writ Petition. In the background of the aforesaid facts, Hon'ble Division Bench held thus:

“10. The Rehabilitation Act 1999 is a beneficial legislation meant for rehabilitation of the persons affected by certain projects for the State of Maharashtra. See, 6 (c) of the Rehabilitation Act of 1999 casts a duty on the project authority apart from other duties as laid down in clauses (a), (b), (d), (e) and (f) of Sec. 6 to give highest propriety in Class- III and Class- IV category of services on the project established to one member of the affected family nominated by the affected person if such member is eligible for such employment according to the recruitment rules for such posts and subject to any reservation validly made and subject to the availability of the posts. The proviso to Sec. 6(c) further mandates that while recruiting a member of affected family against such quota, the project authority shall as far as possible employ not less than 50% of such nominees who are

affected by the project under execution. Reading Sec. 6(c) along with proviso to Sec. 6(c) it is manifest that, an obligation is cast on the project authority to employ not less than 50% of such nominees who are affected by the project. Of course, the same has to be in consonance with the recruitment rules and subject to the availability of posts and reservation validly made. It is for the project authority to perform its obligation as mandated by the statute to employ not less than 50% of the nominees who are affected by the project under execution. It is one of the ways of the rehabilitating the project affected persons.”

15. There cannot be a dispute about the observations made and the decision rendered by the Hon'ble Division Bench in the said matter. For claiming the benefit of the said judgment and more particularly to claim the benefit of the provisions under Rule 6(c) of the Act of 1999, Applicant Association was under an obligation to give the necessary particulars as to who are the persons from amongst the members of the Mula Dharan Prkalpgrasth Kruti Samiti, likely to be affected by the Projects under execution in respect of which the impugned advertisement has been published. In absence of such particulars, we find substance in the objection raised on behalf of the Water Resources Department that, the

applicant Association does not have any locus to claim the relief as has been claimed. From the pleadings in the O.A., it is quite explicit that general grounds are raised justifying the provisions under clause 6(c) of the Act of 1999. That can be a subject matter of a Writ Petition but certainly cannot be a matter to be dealt with under the provisions of the Administrative Tribunals Act. In the circumstances, we uphold the objection raised on behalf of the respondents. In the result the following order is passed:

O R D E R

[i] M.A.No.69/2024 is allowed. Consequently, O.A.No.1048/2023 stands disposed of for want of locus to the Mula Dharan Prakalpgrasth Kruti Samiti, Ahmednagar to file the said O.A. in the present form.

[ii] In view of the disposal of O.A.No.1048/2023, M.A.No.124/2024 also stands disposed of.

[iii] There shall be no order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : 25-07-2024.