

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.98 of 2024 (D.B.)

- 1) Nandkishor Kisan Maigane,
Age @ 25 yrs, Occ - Student R/o. Chandhai, Post Kothari,
Tq. Mangrulpir, Dist. Washim.
- 2) Vishal Manohar Date,
Age @ 29 yrs, Occ - Student,
R/o. Ward No. 13, Sambhaji Nagar, Mangrulpir,
Tq. Mangrulpir, Dist. Washim.
- 3) Abhishekh Shriram Gayakwad,
Age @ 21 yrs, Occ - Student,
R/o. Chandhai, Post Kothari, Tq. Mangrulpir, Dist. Washim.
- 4) Rahul Narsingh Rathod,
Age @ 30 yrs, Occ - Student,
R/o. Bhadkumbha, Post. Shegi,
Tq. Mangrulpir, Dist. Washim.
- 5) Dnyaneshwar Tarasingh Chauhan
Age @34 yrs, Occ - Student, R/o. Sawargaon Kanhoba,
Post. Sakhardoh, Tq. Mangrulpir, Dist. Washim.
- 6) Kokila Mangilal Jadhao
Age @ Adult, Occ - Student, R/o. Malshelu, Post. Titawa,
Tq. Mangrulpir, Dist. Washim.

Applicants.

Versus

- 1) The State of Maharashtra
Through its secretary for Revenue and Forest Department,
Mantralaya, Mumbai.

- 2) The Principal Chief Conservator of Forest,
State of Maharashtra, Nagpur, Wana Bhavan, Ramgiri Road,
Civil Lines, Nagpur.
- 3) The Deputy Conservator of Forest / Member State Selection
Committee, Kolhapur Region, Wanawardhan, Tarabai Park, Opp.
Main Post Office, Kolhapur, Dist. Kolhapur.
- 4) The Chief Conservator of Forest, Chandrapur Forest Department,
Chandrapur, / Member State Selection Committee, Wanabhavan, Civil
Lines, Nagpur, Chandrapur, Chandrapur Dist. Chandrapur.
- 5) The Conservator of Forest, Pandharkawada Region / Member
Regional Selection Committee, Yavatmal, Wanabhavan, Civil Lines,
Church road, Yavatmal.
- 6) The Conservator of Forest,
Aurangabad Region / Member President of Regional Selection
Committee, Chatrapati Sambhaji Nagar, Wanabhavan,
Railway Station Road, Usmanpura, Chatrapati
Sambhaji Nagar – 431005.
- 7) Sudarshan s/o Suryakant Parajane Aged 24 years, Occu.
Education, R/o at Post Khalapuri, Tq. Shirur (Ka) District Beed, Mob.
No. 9850949594.
- 8) Kishor S/o Bharat Wakure,
Aged 27 years, Occu. Education, R/o Massa, Tq. Kallamb, District
Dharashiv Mob. No. 8698086864.
- 9) Akshay s/o Sahnkar Raut,
Age 29 years, Occu. Education, R/o Rautwadi, Post Parinche, Tq.
Purandar, Dist. Pune, Mob. No. 8805848591.
- 10) Dipak S/o Kailas Khandagale,
Age 23 years, Occu. Education, R/o Akhatwada,
Post Pasalwadi, Tq. Khultabad, District Chhatrapati
Sambhajinagar. Mob. No. 7972288919.
- 11) Santosh S/o Babasaheb Sonwane,
Age 23 years, Occu. Education, R/o Tapwon, Tq. Kannad, District
Chhatrapati Sambhaji nagar, Mob. No. 7796189839.

- 12) Asmat Rakajan Lanjekar,
Aged 39 years, Occu. Education, R/o Plot No. 11, Sahara Colony,
Sarnobatwadi, Kolhapur, Mob No. 8055861787.
- 13) Pranali Prakash Jadhav,
Aged 24 years, Occu. Education, R/o Masur, Tq. Karad, District
Satara Mob.No. 9834728355.
- 14) Divya Sarajerao Jadhav,
Age 23 years, Occu. Education, R/o Soudapur, Shivaji Chowk, Tq.
Karad, District Satara, Mob.No. 8668776798.

Respondent.

**S/Shri S.M. Vaishnav, P.S. Thakur, Advs. for the applicants.
Shri A.P. Potnis, learned P.O. for respondent nos.1 to 6.
Shri Thombre holding for Shri S.P. Sonawane, Advocate for
respondent nos.7 to 14 (Intervener).**

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 25/10/2024.

J U D G M E N T

Heard Shri P.S. Thakur, learned counsel for applicants,
Shri A.P. Potnis, learned P.O. for respondent nos.1 to 6 and Shri
Thombre, learned counsel holding for Shri S.P. Sonawane, learned
counsel for respondent nos.7 to 14 (Intervener).

2. The case of the applicants in short is as under –

The respondents have issued advertisement dated
8/6/2023. As per the advertisement, the applicants are qualified. The
applicants are having diploma of Sane Guruji Vyaysay Prashkishan
Sanstha which is approved and affiliated to National Centre for

Vocational and Technical Education (NCVTE). The applicants appeared in the examination for the post of Surveyor, but at the time of documents verification, the respondents have issued the impugned order dated 23/01/2024 by which the applicants are held ineligible for the post of Surveyor. Therefore, the applicants approached to this Tribunal by filing the present O.A. for the following reliefs –

“(8) i) Direct the respondents to consider the claim of the applicants for appointment on the post of surveyor on the basis of NCVTE certificate of Diploma in Land Survey thereby further calling them to appear for practical examination, with kind consideration and in the interest of justice and fair play.

ii) Direct the respondents to incorporate the name of the applicants in the final list of eligible candidates after they clear practical examination as per their ranking and to take further steps in accordance with the requirement process, with kind consideration and in the interest of justice and fair play.

iii) Quash and set aside the impugned communication dtd.23-1-2024 Annexure-A1 issued by respondent no.3, with kind consideration and in the interest of justice and favour.”

3. The O.A. is strongly opposed by the respondents and also intervener / respondents nos. 7 to 14. Respondent nos.1 to 6 have submitted that as per the Government decision dated 28/09/2012 for the post of Surveyor minimum qualification is SSC and Certificate course of two years from ITI is required. The applicants are not having

certificate course from ITI. Therefore, they are not eligible for the post of Surveyor and hence application is liable to be dismissed.

4. During the course of submission, the learned counsel for applicants has pointed out Certificate issued by Sane Guruji Vyaysay Prashkishan Sanstha. As per his submission, the said diploma is approved by the NCVTE and therefore he submits that the applicants are qualified for the post of Surveyor. The respondents have wrongly not considered the qualification of applicants and therefore the applicants have approached to this Tribunal.

5. Shri Thombre, learned counsel for respondent nos.7 to 14 has pointed out the G.R. dated 28/09/2012 and corrigendum dated 12/11/2018. He has pointed out the Judgment passed by the M.A.T., Bench at Aurangabad in O.A.857/2019.

6. From the perusal of the impugned order, it appears that in view of the Judgment passed by this Tribunal and G.R. dated 28/9/2012, the applicants are not qualified for the post of Surveyor advertised by the respondents. Therefore, the applicants were not allowed for further process of recruitment, i.e., practical examination.

7. The order of this Tribunal in O.A.No.93/2008 is very clear. In the Judgment in para-5 and 6 it was held that though the applicant was having more higher qualification than required, then also he is not

entitled to get employment because there is a condition in the advertisement itself. Para-5 and 6 of the Judgment are reproduced below –

"5. We find that Rule 6 of the Forest, Forest Guard, Range Surveyor, Surveyor, Head Clerk, Accountant and Clerk-cum-typist (Recruitment Rules), 1987 reads as follows:-

"6. Appointment to the post of Surveyor in the Forest Department shall be made by nomination from amongst candidates, who:-

(i) Are not more than twenty eight years of age;

(ii) Have passed secondary school certificate examination and Surveyor's Training Course of a recognized Institution;

Provided that preference may be given to candidates possessing intermediate grade drawing certificate in addition to the qualification mentioned in clause (ii)."

It is an admitted fact that the Applicant does not have Certificate of Surveyor's Training Course. He also does not have Intermediate Grade Drawing Certificate. The claim of the Applicant is that he holds qualification of Diploma in Civil Engineering. He has placed mark list of second year of Diploma in which subjects of 'Surveying' and 'Civil Engineering Drawing' are taught. However, it is difficult to accept the contention of the Applicant that these subjects are substitute or equivalent to Certificates required under the Recruitment Rules. It is not the work of the Courts/Tribunals to determine equivalence of various courses. On plain reading of the Recruitment Rules, which are framed under Art. 309 of the Constitution of India, the Applicant does not hold requisite qualification for the post of Surveyor in Forest Department.

6. The Applicant has claimed that in some other Forest Circles, persons holding the qualification of Diploma in Civil Engineering or holding even B.A degree have been appointed as Surveyors. This is not denied by the Respondents. However, it is stated that such appointments were contrary to the Recruitment Rules and remedial measures are being taken. We have concluded that the Applicant is not eligible for appointment as Surveyor on the basis of Recruitment Rules. If some other persons have been wrongly appointed, that will not help the Applicant. This Tribunal is unable to give direction to perpetuate the selections contrary to the Recruitment Rules, if that was done in some cases in the past. Hon'ble Supreme Court has held in the case of **C.S.I.R & others Vs. Dr Ajay Kumar Jain, 2000 S.C.C (L & S) 456** that the concept of equality cannot be applied to perpetuate a wrong committed earlier. We are not inclined to accept the contention of the Applicant in his behalf.”

8. In the impugned order, the reference of the said Judgment is given and also the reference of G.R. dated 28/9/2012 was also given. As per the G.R. dated 28/9/2012, two years course of certificate of construction surveyor is approved by the Government for the post of Surveyor. That certificate course is available in ITI of Government of Maharashtra. The learned counsel for respondent nos.7 to 14 has filed copy of G.R. 28/9/2012. The material portion of the G.R. is reproduced below –

“प्रस्तावना : देशाच्या आर्थिक आणि औद्योगिक क्षेत्रातील प्रगतीमध्ये व्यवसाय शिक्षणास अनन्य साधारण महत्त्व प्राप्त झालेले आहे. ही काळाची गरज ओळखून राज्य शासनाने व्यवसाय शिक्षणाच्या विकासासाठी अनेक योजना सुरु करण्याचे धोरण अवलंबिलेले आहे. तसेच

आंतरराष्ट्रीय स्पर्धेत टिकून राहण्यासाठी औद्योगिक क्षेत्रात कुशल कामगार वर्गाची गरज निर्माण झालेली आहे. त्यासाठी व्यवसाय शिक्षणाचा दर्जा उंचावणे अत्यंत आवश्यक आहे.

सध्या व्यवसाय शिक्षण परीक्षा मंडळाचे व्यवसाय अभ्यासक्रम उत्तीर्ण विद्यार्थ्यांना पुढील शिक्षणाच्या संधी उपलब्ध नसल्याने अशा विद्यार्थ्यांसाठी कुंठीतता घालवून भविष्यात त्यांना रोजगार व स्वयंरोजगाराच्या जास्त संधी, उपलब्ध करून देणे क्रमप्राप्त आहे. तसेच औद्योगिक प्रशिक्षण संस्थांतील अभ्यासक्रमांशी व्यवसाय परीक्षा मंडळातील अभ्यासक्रमांना नोकरीसाठी पर्यायी शैक्षणिक अर्हता दिल्यास व्यवसाय शिक्षण परीक्षा मंडळाच्या १ वर्ष व २ वर्ष कालावधीचे अभ्यासक्रम उत्तीर्ण विद्यार्थ्यांना रोजगार व स्वयंरोजगाराच्या दृष्टीने उपयुक्त ठरणार आहे.

वरील मुद्दे विचारात घेवून शासनास शिफारस करण्याकरीता संबंधित क्षेत्रातील तज्ज्ञ व्यक्ती व शासकीय, अधिकारी यांची एक संयुक्त समिती शासनाने गठित केली होती. सदर समितीने याप्रकरणी मंडळाचे अभ्यासक्रमांची कारणमिमांसा केली तसेच सदर विविध स्तरावरील शिक्षण घेतलेले विद्यार्थी, त्यांचेसाठी उपलब्ध रोजगाराच्या संधी, उद्योगधंद्यांसाठी आवश्यक कुशल मनुष्यबळ, शिक्षण घेत असतांना गळती झालेले विद्यार्थी, सेवायोजन कार्यालयातील विद्यार्थी नोंदणी तपशिल, अभ्यासक्रमांना समकक्षता तसेच पर्यायी शैक्षणिक अर्हता दिल्याने विद्यार्थ्यांना होणारे फायदे, राज्यामध्ये व देशामध्ये विविध विभागांनी समकक्षता तसेच पर्यायी शैक्षणिक अर्हता याबाबत निर्गमित केलेले आदेश, व्यवसाय शिक्षणासाठी विविध समितींनी केलेल्या शिफारशी, अभ्यासक्रम राबविताना संस्थांकडून पूर्तता होणेकरीता आवश्यक अटी इत्यादींबाबत सर्वंकष अभ्यासक्रम आढावा घेवून समितीने शिफारशी व आवश्यक अटीसह अहवाल शासनास सादर केलेला आहे. सदर अहवालामध्ये व्यवसाय शिक्षण परीक्षा मंडळाचे १ वर्ष व २ वर्ष कालावधीचे अभ्यासक्रमांना औद्योगिक प्रशिक्षण संस्थांतील अभ्यासक्रमांशी नोकरीसाठी पर्यायी शैक्षणिक अर्हता निश्चित करणेबाबत शिफारस करण्यात आलेली आहे. त्यास अनुसरून व्यवसाय शिक्षण परीक्षा मंडळाचे १ वर्ष व २ वर्ष कालावधीचे अभ्यासक्रमांना औद्योगिक प्रशिक्षण संस्थांतील अभ्यासक्रमांशी नोकरीसाठी पर्यायी शैक्षणिक अर्हता निश्चित करण्यास मान्यता देण्याबाबतची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :

उपरोक्त प्रस्तावनेत नमुद सर्व बाबींचा विचार करून व्यवसाय शिक्षण परीक्षा मंडळाचे सोबतच्या परीशिष्ट "अ" मध्ये दर्शविल्यानुसार १ वर्ष व २ वर्ष कालावधीच्या पूर्ण वेळ स्वरूपाच्या विविध गटातील अभ्यासक्रमांना औद्योगिक प्रशिक्षण संस्थामधील अभ्यासक्रमांशी नोकरीसाठी पर्यायी शैक्षणिक अर्हता (Alternate Qualification) म्हणून या शासन निर्णयान्वये मान्यता देण्यात येत आहे.

२. व्यवसाय शिक्षण परीक्षा मंडळाने आपल्या अभ्यासक्रमाच्या दर्जाचा स्तर हा औद्योगिक प्रशिक्षण संस्थांमधील अभ्यासक्रमाच्या दर्जाएवढाच राखणे आवश्यक राहिल. ”

9. As per the annexure to the G.R. at Sr.no.37, the post of Surveyor, the qualification / certificate course of Surveyor is given. It is as under –

औद्योगिक प्रशिक्षण संस्था				व्यवसाय शिक्षण परीक्षा मंडळातील समकक्ष अभ्यासक्रम			
अ.क.	व्यवसाय अभ्यासक्रम	कालावधी	शैक्षणिक अर्हता	अ.क.	व्यवसाय अभ्यासक्रम	कालावधी	शैक्षणिक अर्हता
३७.	सर्व्हेअर	२ वर्षे	एस.एस.सी.	१.	सी.सी.इन कन्स्ट्रक्शन सर्व्हेअर	२ वर्षे	एस.एस.सी.

10. The applicants are not having any certificate course of ITI approved and recognized by the Government of Maharashtra. There is nothing on record to show that the Certificate issued by Sane Gururji Vyaysay Prashkishan Sanstha in respect of diploma is approved by the Government of Maharashtra. Except the Certificate issued by Sane Gururji Vyaysay Prashkishan Sanstha, there is no other document to show that the applicants are having required qualification. There is nothing on record to show that Certificate issued by Sane Gururji Vyaysay Prashkishan Sanstha is recognized education or diploma by the Government of Maharashtra. The respondents at the time of documents verification have found that the applicants are not having required Certificate of land Surveyor as per the G.R. dated

28/9/2012. Though there is no recruitment rule is produced on record, but it appears from the G.R. dated 28/09/2012 the course which is given in the advertisement for the post of Surveyor is available in ITI Government of Maharashtra. Hence, the applicants are not eligible for the post of Surveyor. Therefore, we proceed to pass the following order –

ORDER

The O.A. is dismissed with no order as to costs.

(Nitin Gadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 25/10/2024.
dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and
Member (A).

Judgment signed on : 25/10/2024.