

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**MISC APPLICATION NO. 210 OF 2024
IN
ORIGINAL APPLICATION NO 644 OF 2022**

DISTRICT : SATARA

Vinayak Bhagwan Kashid,)
Flat No. 2, Sawant Sankul,)
Near Cannol, Vidyanagar Karad)
Satara 415 124.)...**Applicant**

Versus

Maharashtra Public Service)
Commission, through its Secretary,)
Trishul Gold Field, Plot No. 34,)
Sector-11, Opp. Sarovar Vihar,)
CBD Belapur, Navi Mumbai 400 614)...**Respondents**

Shri Kranti L.C with Shri Kaustubh Gidh, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 19.04.2024

J U D G M E N T

1. In this Misc Application the applicant prays for staying the recruitment process which is initiated pursuant to the Advertisement No. 53/2022 dated 23rd June, 2022 until the Respondents comply with the directions given by this Tribunal dated 7.11.2022 in O.A 644/2022.

2. Learned counsel for the applicant submits that the Original Application No. 644/2022 is already disposed of with directions that the Respondents to keep one post of PSI reserved for Transgender in Socially and Economically Backward Classes for citizens in this examination. Learned counsel further submitted that MPSC has accepted the order and acted upon it while declaring the result of the Preliminary Examination on 5.7.2023. Learned counsel relied on Annexure A-3, dated 5.7.2023, which is the list of cut-off marks of Preliminary Examination and in the said list the last category was show as Transgender, wherein the cut off marks is shown as 4.50 marks.

3. Learned counsel for the applicant further submitted that thereafter MPSC filed M.A 124/2024 seeking recall of the order dated 7.11.2022 passed in O.A 644/2022. The said Misc Application was rejected on 19.3.2024. However, before that MPSC has declared the cut-off marks for the Main Examination-2022 for PSI wherein the cut-off of Orphan is shown. However, in the earlier result of the Preliminary Examination for the post of PSI-2022, the cut-off marks under the category of Transgender is shown. Learned counsel submitted that this is the main grievance of the applicant as the applicant is given different treatment violating Article 14 of the Constitution of India, if at all cut-off marks of all categories is fixed and declared even though there is

one or two candidates contesting in that category. Consequently, no name of the Transgender is found mentioned in the list of candidates who qualified for the physical test dated 13.3.2024.

4. Learned C.P.O appearing for MPSC has submitted that there are two Transgender persons appearing for the Main Examination. She submitted that the State has not decided in the policy of reservation for Transgenders and therefore MPSC decided not to show Transgender as a category and show percentile of the Transgenders. She further submitted that however considering the directions given by this Tribunal, MPSC has decided to call both the candidates belonging to Transgender for physical test. Accordingly, MPSC has notified the Physical Standards for Transgender on 5.4.2024. Learned C.P.O further submitted that the physical test which was fixed on 5.4.2024 up to 27.4.2024 is postponed due to the Lok Sabha Elections and tentatively the physical test will be conducted after the elections are over as the Police machinery is not available and busy with the elections.

5. Considered the submissions of both sides. We are not inclined to stay the entire process of the recruitment. However, our order dated 7.11.2022 in O.A 644/2022 is to be obeyed, wherein we have directed that one post for the Transgender is to be reserved in terms of the ratio laid down by the Hon'ble Supreme Court in the case of NATIONAL LEGAL SERVICES AUTHORITY Vs. UNION OF INDIA & ORS, (2014) 5 SCC 438.

6. We have perused both the documents, i.e., Preliminary Examination result dated 13.3.2024 and Main Examination result dated 5.4.2024, showing the cut-off marks of all the categories. In the Preliminary Examination the Transgender is shown as a separate category. Thus, order of this Tribunal was complied with

till that stage. Same procedure should have been followed by the MPSC when they declared the result of the Main Examination on 5.4.2024.

7. Hence, we direct MPSC to follow the same procedure as they have followed at the time of fixing the cut-off marks for the transgenders in the Preliminary Examination. We direct MPSC to modify the list of cut-off marks including Transgenders in the Main Examination which was published on 13.3.2024. We also direct MPSC to take needful steps and further declare the name of the qualifying candidates from the category of Transgender.

8. With the above directions, M.A stands disposed of.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 19.04.2024
Dictation taken by : A.K. Nair.