

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.188 OF 2024 WITH
O.A.NO.420/2024 WITH O.A.NO.478/2024
WITH O.A.NO.631/2024 WITH O.A.NO.765/2024**

O.A.No.188/2024

Bharat Tukaram Durge,)
R/o. Survey No.64, Flat No.18,)
Ganesh Apt. Near Trimurti Hospital,)
Wadgaon (B), Pune 411 041)...**APPLICANT**

VERSUS

- 1) State of Maharashtra,)
Through the Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai 400 032)
- 2) In Charge State Examination)
Co-ordinator and Additional)
Settlement)
Commissioner and Additional Director,)
Land Record, MS Pune, 2nd and 3rd)
floor, New Administrative Building,)
Near Vidhan Bhavan, Pune 411 001)
- 3) Settlement Commissioner and)
Additional Director, Land Record,)
M.S.,Pune, 2nd and 3rd floor,)
New Administrative Building,)
Near Vidhan Bhavan, Pune 411 001)...**RESPONDENTS.**

WITH

O.A.No.420/2024

- 1) Mr. Bhagwan Krishna Redekar)
Age : 42 years, Occ : Agriculture,)
R/o. Harali Bk, Tal. Gadhinglaj,)
Dist. : Kolhapur.)

- 2) Pranali R. Munganekar,)
Age : 27 years, Occ. Student,)
R/o. Nakhare Tal. Ratnagiri,)
Dist. Ratnagiri 415 616)
- 3) Anil Ratan Rathod,)
Age : 30 years, Occ. Student,)
R/o. Near Old Janata Bank,)
Kalyan (E), Thane.)
- 4) Vikram Sanjay Baad,)
Age : 25 years, Occ. Student,)
R/o. Laxminagar Tal. Sangola,)
Dist. Solapur.)
- 5) Amruta S. Patil,)
Age : 25 years, Occ. Student,)
R/o. Warange Padali, Tal : Karveer,)
Dist. Kolhapur.)
- 6) Datta Dinkar Chavan,)
Age : 30 years, Occ. Student,)
R/o. Gaibeenagar,)
Post : Rakshshbhuvan, Tal : Georai,)
Dist. Beed.)
- 7) Pandurang V. Nirmal,)
Age : 30 years, Occ. Student,)
R/o. Khundras, Post : Pimpalnagar,)
Tal & Dist. Beed.)
- 8) Shraddha V. Giri,)
Age : 28 years, Occ. Student,)
R/o. Kumbharwadi, Tal : Kharola,)
Dist. Latur.)
- 9) Sangamnath Nagorao Kangare,)
Age : 34 years, Occ. Student,)
R/o. Nandusa Tal & Dist. Nanded)
- 10) Rahul B. Jadhav,)
Age : 29 years, Occ. Student,)
R/o. Gajanan Colony, Ambegao)
Pathar, Dhankawadi, Pune 411 046)
- 11) Amol J. Lakhe)
Age : 32 years, Occ. Student,)

- R/o. Morgaon, Tal. Balapur,)
Dist. Akola)
- 12) Manesh Kedarnath Chaure,)
Age : 34 years, Occ. Student,)
R/o. Kotwal at Dhangarpura,)
Tal. Beed, Dist. Beed.)
- 13) Rahul Tanaji Kambale,)
Age : 29 years, Occ. Student,)
Shinganapur Tal. Karveer,)
Dist. Kolhapur.)
- 14) Shankar M. Satpute,)
Age : 34 years, Occ. Student,)
R/o. Diva Tal. & Dist. Thane.)
- 15) Dhammanad S. Lonikar,)
Age : 25 years, Occ. Student,)
R/o. Post Loni, Tal. Udgir,)
Dist. Latur.)
- 16) Omkar M. Gayke,)
Age : 21 years, Occ. Student,)
R/o. 18, Shram Safalya Society,)
Santosh Nagar, Goregaon (E),)
Mumbai.)
- 17) Bhanudas Eknath Sirsat,)
Age : 48 years, Occ. Agriculture,)
R/o. Matoshree, 29/B Samarth,)
Nagar, Ambad Road, Old Jalna,)
Dist. Jalna.)
- 18) Pravin Pandurang Gore,)
Age : 28 years, Occ. Student,)
R/o. Naigaon, Tal : Kalamb)
Dist. Dharashiv.)
- 19) Gahininath Ramdas Sangale,)
Age : 29 years, Occ. Student,)
R/o. Post Patsara Tal Ashti,)
Dist Beed.)
- 20) Pavan Limbaji Tupkar,)
Age : 27 years, Occ. Student,)
R/o. Post Gunj Tal. Sindkhed Raja)
Dist. Buldhana.)

- 21) Ganesh Dnyadeo Lokhande,)
Age : 30 years, Occ. Student,)
R/o. Ropale, Tal. Pandharpur,)
Dist. Solapur.)
- 22) Ganesh R. More,)
Age : 31 years, Occ. Student,)
R/o. Mahagaon Post: Dyadparula,)
Tal. Banshitakli, Dist. Akola.)
- 23) Rahul Sharad Mendhe)
Age : 31 years, Occ. Student,)
R/o. Lakhandur Tal. Ladhandue)
Dist. Bhandara.)
- 24) Sayali Ravindra Shinde)
Age : 22 years, Occ. Student.)
R/o. 317, Chincholi, Tal. Anjangao,)
Dist. Amaravati.)
- 25) Ketan Kishor Shende,)
Age : 25 years, Occ. Student,)
R/o. Shashtri Nagar Zoadpatti,)
Near Pawar Peth, Budha Vihar,)
Wathida Road, Nagpur.)
- 26) Sangram Santosh Patil,)
Age : 29 years, Occ. Student,)
R/o. Kameri Tal. Walwa,)
Dist. Sangali.)
- 27) Vaishali Bapurao Kharvan,)
Age : 30 years, Occ. Student)
R/o. Mhalsa Javala, Tal. Beed.)
Dist. Beed.)
- 28) Sunil Kisan Gavhane,)
Age : 28 years, Occ. Student,)
R/o. Wadhona Tal. Bhokardan,)
Dist. Jalna.)
- 29) Roshan Anadrao Kenjale,)
Age : 25 years, Occ. Student,)
R/o. Sakharwadi, Tal. Karad,)
Dist. Satara.)

- 30) Dhanaji Subrao Patil,)
Age : 52 years, Occ. Agriculture,)
R/o. Pimpaliwadi, Tal. Paranda,)
Dist. Dharashiv.)
- 31) Dipak Rustam Mhaske,)
Age : 24 years, Occ. Student,)
R/o. New Kaigaon, Tal. Gangapur,)
Dist. Aurangabad.)
- 32) Namdeo Gorakhanath More,)
Age : 30 years, Occ. Student,)
R/o. Wadgaon, Tal. Beed,)
Dist. Beed.)
- 33) Swapnil Sambhaji Chavan,)
Age : 26 years, Occ. Student,)
R/o. Savarde, Tal. Radhnagari,)
Dist. Kolhapur.)
- 34) Dattatray Raosaheb Pandhare,)
Age : 27 years, Occ. Student,)
R/o. Didgaon, Post Boraon,)
Tal. Sillod,)
Dist. Chhatrapati, Sambhajinagar.)
- 35) Nivedita Deeliprao Patil,)
Age : 29 years, Occ. Student,)
R/o. Pundi Road, Choundeshwari)
Colony, Tasgaon, Dist. Sangli,)
- 36) Aditi Sanjay Pardeshi,)
Age : 25 years, Occ. Student,)
R/o. Sayyed Plot, Vita Road,)
Tasgaon, Dist. Sangali.)
- 37) Sushilkumar Nagorao Dhepe)
Age : 37 years, Occ. Ex-Servicemen,)
R/o. Warud Tal & Dist. Wardha)
- 38) Ashish Avinash Narpache)
Age : 30 years, Occ. Student,)
R/o. Thar, Tal. Ashti, Dist. Wardha)
- 39) Pranita Ramchandra Shende,)
Age : 27 years, Occ. Student,)
R/o. Talegaon, Tal. Ashti,)
Dist. Wardha.)

- 40) Ashwini Shivsharan Mane,)
 Age : 33 years, Occ. Student,)
 R/o. Room No.409, Kaikadi Galli,)
 Tal. AUSA Dist. Latur.) **....APPLICANTS**

VERSUS

- 1) The State of Maharashtra,)
 Through the Chief Secretary,)
 Mantralaya, Mumbai 32)
- 2) The State Examination Co-Ordinator)
 & Joint Settlement Commissioner,)
 & Additional Director, Land Records,)
 (Maharashtra State), 2nd & 3rd Floor,)
 New Administrative Building,)
 Office of Settlement Commissioner &)
 Director of Land Records Office,)
 Maharashtra State)
 Pune.)
- 3) Suyosh K. Aldar,)
 R/o. Gurudatta Chawl, Muktinagar,)
 Chembur, Mumbai 400 071)
- 4) Sudhir B. Patil,)
 R/o. Reu Nagar, Plot No.02, Amalner)
 Tal. Amalner, Dist. Jalgaon) **...RESPONDENTS**

WITH

O.A.No.478/2024

- Vishawmhar Dagal Landage)
 Age : 48 years, Occ. Ex-Serviceman,)
 R/o. Lavhe, At Post : Jeur,)
 Tal. Karmala, Dist. Solapur) **...APPLICANT.**

VERSUS

- 1) The State of Maharashtra,)
 Through the Principal Secretary,)
 Revenue and Forest Department,)
 Mantralaya, Mumbai 32)
- 2) In Charge State Examination)
 Co-ordinator and Joint Settlement)
 Commissioner, State of Maharashtra,)
 Pune 410 001)

- 3) The Collector,)
Solapur, District Collector Office,)
Solapur.)
- 4) Sudarshan Shivaji Bansode,)
Post : Kharadi, Pune.)
- 5) Mahesh Kailas Gadakh,)
At post : Paregaon NK,)
Tal. Sangamner, Dist. Ahmednagar.) **...RESPONDENTS.**

WITH**O.A.No.631/2024**

- Rutuja Sudhir Mahadeshwar)
Age : 32 years, Occ. Housewife,)
R/o. Sawantwadi, Tal. Sawantwadi.)
Dist. Sindhudurg.) **...APPLICANT.**

VERSUS

- 1) The State of Maharashtra,)
Through the Chief Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai 32)
- 2) The State Examination Co-Ordinator)
& Joint Settlement Commissioner,)
& Additional Director, Land Records,)
(Maharashtra State), 2nd & 3rd Floor,)
New Administrative Building, Office of)
Settlement Commissioner & Director)
Land Records Office,)
Maharashtra State, Pune.) **...RESPONDENTS.**

WITH**O.A.No.765/2024**

- 1) Mahesh Hanmant Karandkar)
Age : 26, Occu. Student,)
R/o. Rangeghar, At - Post- Karandi,)
Tal : Jaoli, Dist. Satara.)
- 2) Prasanna Sunil Deshmukh)
Age : 22 years, Occ. Student,)
R/o. Near Old Nagar Parishad,)
Nandi Peth, Washim,)
Dist. Washim 444 505)

- 3) Swapnil Madan Bhanarkar)
 Age : 25 years, Occ. Student,)
 R/o. At Post – Moharna,)
 Tal. Lakhandur, Dist.)
 Bhandara 441 910.)
- 4) Shalini Bhimrao Ghutke,)
 Age : 36 years, Occ. Student,)
 R/o. Kanwah, At Post : Shirpur,)
 Tal Umred, Dist. Nagpur 441 203)
- 5) Ajaykumar Mahadev Kshirsagar,)
 Age : 39 years, Occ. Ex-Serviceman,)
 R/o. Thakur Colony, Gangakhed,)
 Tal. Gangakhed,)
 Dist. Parbhani 431 514)
- 6) Hanmant Shankar Mane,)
 R/at. Kudnur, At Post : Kokale,)
 Tal. Jath, Dist. Sangli 416 405) **...APPLICANTS.**

VERSUS

- 1) The State of Maharashtra,)
 Through the Principal Secretary,)
 Revenue and Forest Department,)
 Mantralaya, Mumbai 32)
- 2) In Charge State Examination)
 Coordinator, And Joint Settlement)
 Commissioner, State of Maharashtra,)
 Pune 410 001) **...RESPONDENTS.**

Shri D.H Pawar, learned Counsel for the Applicants in O.A 420 & 631/2024.

Ms Mangale, learned Counsel for the applicants in 478 & 765/2024.

Ms Purva Pradhan holding for Shri D.B Khaire, learned Counsel for the applicant in O.A 188/2024.

Ms Swati Manchekar, learned Chief Presenting Officer for Respondents.

Shri S.S Dere, learned Counsel for the private Respondent.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Debashish Chakrabarty (Member) (A)

DATE : **05.07.2024**

PER : **Justice Mridula Bhatkar (Chairperson)**

J U D G M E N T

1. All these Original Applications are decided by a common order as the issues involved are the same pertaining to flaw in the selection process for the posts of Talathi. The Respondents had engaged TCS-ION to conduct the examination for total 4793 posts of Talathi all over Maharashtra. In the Advertisement dated 26.06.2023, recruitment for total 4644 posts of Talathi had been mentioned by d by Settlement Commissioner and Additional Director of Land Records, Pune.

2. The result of Written Examination was declared on 01.01.2024 with publication of first Merit List. The names of all Applicants except O.A.No.188/2024 were included in the first Select List published on 23.01.2024. Thereafter revised Select List was published on 14.03.2024, when names of the Applicants came to be deleted. Some Questions and Answers were disputed by certain Candidates resulting in revised Select List being published on 14.03.2024

3. In all 1041713 candidates appeared for Written Examination which was held by TCS-ION from 17.08.2023 to 14.09.2023 in 3 Sessions. Total of 570 Question Papers Sets were used. 5700 Questions were included in these 570 Question Paper Sets. 219 Questions and Answers were disputed and reviewed by TCS-ION.

The revised Merit List was published on 14.03.2024. Thereafter, revised Select List was published on 14.03.2024 and all Applicants have approached the Tribunal against this revised Select List of 14.03.2024 as their names had been deleted. The factual matrix is that first Merit List was published on 5.1.2024 and first Select List on 23.1.2024 while revised Merit List was published on 11.3.2024 and revised Select List was published on 14.3.2024. The 41 applicants were from 23 Districts across Maharashtra.

4. O.A. No. 478/2024:- Learned counsel submits the Applicant in O.A 478/2024 is 'Ex-serviceman'. He is from Solapur District. There are 4 Posts reserved for 'Ex-servicemen'. The Applicant stands on 3rd rank amongst 'Ex-servicemen' in first Select List of Solapur District. The Applicant was given 1st Shift (Batch) on 17.08.2023. The learned Advocate for Applicant submits that 2 Questions were changed. In the first Merit List, the marks of Applicant were 113.19760. In the second Merit List, his marks were 114.70677. Though approximately 1 mark was increased, the Applicant was pushed down in the Merit List by 0.8. The learned Advocate for Applicant gives factual details in respect of Applicant who was asked to appear in 1st Shift (Batch) on 17.08.2023. On that day, 2 Questions were changed and therefore, 2 marks were given by TCS-ION for each of the 2 Questions to every candidate who appeared in 1st Shift (Batch) on 17.08.2023 along with Applicant. Therefore, marks of the Applicant should have increased by 4 marks instead it being increased by only 1 mark.

5. O.A.No.188/2024 :- Ms. Purva Pradhan, learned Advocate for Applicant submits that pursuant to Advertisement dated 26.06.2023, Applicant has applied for the post of 'Talathi' from Pune District. 11 posts in 'EWS Category' are reserved for

candidates in Pune District. The Applicant is from 'EWS General Category'. After Written Examination was conducted on 27.09.2023 in 1st Shift (Batch), 3 objections were raised. In respect of 2 Questions, the Applicant has thrice raised the same objection. On 14.03.2024 the revised Select List was published. The Applicant had filed this O.A.No.188/2024 on 08.02.2024. As grievance of Applicant was not redressed, the Applicant approached this Tribunal. On 12.02.2023, this Tribunal passed detailed order by reproducing the 2 Questions and objection raised by Applicant and thereupon directions were given to keep One Post vacant on 16.02.2023. Thereafter, revised Merit List was published on 11.03.2024 and after that revised Select List was published on 14.03.2024. The Applicant found that 2 Questions for which he had raised objection were cancelled. One Question was correct but Answer-Key was wrong while Second Question itself was wrong. Therefore, TCS-ION cancelled both questions. In the first Mark List, published on 05.01.2024 Applicant has secured 190.13259 marks and after publication of revised Select List on 14.03.2024, the marks of Applicant were shown as 193.67297. It is submitted that there was no need of cancelling the 2 Questions and had these not been cancelled by TCS-ION, the candidates who had not answered them correctly, would not have got more marks than Applicant and under such circumstances, the name of Applicant would have been included in EWS 'General Category' in the revised Select List. The learned Advocate for Applicant submits that the revised Select List published on 14.03.2024 shows that last selected candidate from 'EWS General Category' has scored 195.01828 and 'Wait List' candidate has scored 194.83148. The learned Advocate for Applicant submits that if 2 marks for correct One Question is given to Applicant, then he will be included in list of Selected Candidates. The last Selected Candidate in 'EWS General Category' has scored 195.01828 and if 2 marks are given

for correct One Question, then Applicant's score will become 195.67297 and he will be included in the revised Select List published on 14.03.2024.

6. After the results were declared with publication of first Merit List on 5.1.2024, TCS-ION based on directions received from Respondent-State, Revenue & Forest Department, again considered all objections they had reviewed earlier and reviewed its results. The revised Merit List was published on 11.3.2024 and names of all Applicants are not included in this revised Select List published on 14.3.2024. All the Applicants have common grievance about the correctness of the Questions and Answer Key as also about the proper evaluation of the Questions by TCS-ION.

7. Learned Counsel for the Applicants Shri D.H Pawar and Ms B. Mangle have submitted that the Respondent-State, Revenue & Forest Department have not followed due diligence and observed sanctity of process while correcting the Answer Sheets of candidates though in some Questions errors were noticed soon after publication of Answer Keys. Learned Counsel for the Applicants argued that the TCS-ION had no good and valid reason to revise the first Merit List published on 05.01.2024 or the first Select List published on 23.01.2024. Learned Counsel for the Applicants submitted that the reasons given by the Respondent-State, Revenue & Forest Department in their Affidavit-in-Reply and also in the 'Publicity Notes' dated 27.9.2023, 6.12.2023, 22.12.2023, 4.1.20024 and 11.3.2024 issued by Additional Settlement Commissioner and Additional Director of Land Records, Pune, about review of the objections by TCS-ION resulting in change of 219 Questions was arbitrary and illegal. Learned Counsel for Applicants pointed out that in the 'Publicity Notes' the reason mentioned that review was done by TCS-ION in view of the

Order dated 13.2.2024 passed by the Hon'ble High Court, Aurangabad Bench in W.P 1744/2024 is completely false. Neither the Hon'ble High Court, Aurangabad Bench nor the Tribunal have ever directed the Respondent-State, Revenue & Forest Department to review all the objections and then prepare the revised Select List which was published on 14.03.2024. Hence, on the face of it the 'Publicity Note' is misleading, defective as also malicious. Learned Counsel for Applicants further submitted that because of the review of all objections by TCS-ION and the revision of marks awarded in first Merit List published on 05.01.2024, injustice is caused to the applicants. Learned Counsel for Applicants has challenged the decision of the Respondent-State, Revenue & Forest Department to revise its overall examination result itself once it had been published. It was submitted that the Respondent-State, Revenue & Forest Department has failed to point out in their Affidavit-in-Reply any justifiable ground for such revision of published marks of Written Examination. After the Written Examination was conducted the TCS-ION had called for the objections from all candidates and accordingly the candidates had submitted large number of objections to TCS-ION. The Applicants fail to understand how, why and on whose instance the first Merit List published on 05.01.2024 was revised. Thus, there is complete deviation from the process and procedure laid down by the Respondent-State, Revenue & Forest Department. The Respondent-State, Revenue & Forest Department along the way to making appointments have changed the rules of the game when the selection process had duly started and they had no right to do so. Learned Counsel for Applicants has submitted that as the name of Applicants had appeared in the first Select List published on 23.01.2024 they have legitimate expectation to be considered further for appointment and therefore the Applicants have claimed their right before this Tribunal.

8. Learned Counsel Ms Purva Pradhan i/b Shri D.B Khaire, has submitted that the applicant in O.A 188/2024 has raised objection for 2 Questions. First Question was about 'Migration from Pakistan to India' based on 'Article 6' of the 'Constitution of India' and the options provided in the Answer Key on the face of it were incorrect. The Second Question was about arithmetically measuring the 'Distance between Two Boats'. Learned Counsel has submitted that after hearing the case of Applicant the Tribunal by its order dated 16.2.2024 had directed to keep One Post of Talathi vacant in Pune District. The Applicant has secured 190.13259 marks when first Merit List was published on 05.01.2024 and in revised Merit List which was published on 11.3.2024 the Applicant has secured 193.67927 marks. At the time of review of objections, the TCS-ION cancelled both questions when in fact for One Question; Correct Answer had been given by the Applicant. Learned Counsel submitted that Applicant was thus entitled to get 2 Marks for this Correct Answer. However, TCS-ION while cancelling these 2 Questions have awarded 2 Marks for each to all the candidates. The Applicant who had given the Correct Answer has thus lost chance to be in the revised Select List published on 14.03.2024. However, in the revised Select List published on 14.3.2024 the last candidate has secured 195.10828 marks. Learned C.P.O. has rightly pointed out that there are 2 candidates who are in Wait List and have secured marks in between the last selected candidate and the Applicant.

9. Learned counsel Mr. D.H. Pawar relied on the following case laws:-

- (i) Judgment of the Hon'ble Supreme Court dated 20.2.2023, in the case of Sureshkumar Lalitkumar Patel & Ors Vs. State of Gujarat & Ors.

- (ii) Judgment of Hon'ble Supreme Court dated 2.2.2024 in the case of Anil Kishore Pandit Vs. State of Bihar & Ors.

10 Learned C.P.O relied on the Affidavit-in-reply dated 19.4.2024 filed by Sanjay R. Bankar, Joint Secretary in the office of Additional Chief Secretary, (Revenue) Revenue and Forest Department, Mantralaya, Mumbai. The examination for the posts of Talathi was conducted for 19 days in 57 shifts. In all 1041713 candidates applied and 864960 appeared for the Written Examination. The total posts of Talathi were later increased to 4793. Learned C.P.O submitted that there was no change in the selection process. Total 149 Questions were changed before the first Merit List was published on 5.1.2021 and thereafter no change was accepted. Learned C.P.O submitted that the Revenue & Forest Department in its meeting held on 22.2.2024 had taken conscious decision to direct TCS-ION to review all the objections raised by candidates.

11. Learned Counsel for Applicants has submitted that the objections raised were only in respect of 4 Questions. Learned C.P.O submitted that objections in respect of 4 Questions were not considered by TCS-ION. After 4.1.2024 no new objections from candidates were received by TCS-ION. Learned C.P.O has submitted that 149 objections decided by TCS-ION, but they had received many more objections from the candidates. Total objections received were 16205 with regard to 2831 questions. Out of 16205 objections received, 9072 objections were held to be valid and corrections were made with regard to 146 questions. The objections regarding 4 Questions raised by two candidates who have approached the 'Judicial Forum' also were amongst the 16205 objections received by TCS-ION.

12. Learned C.P.O has further submitted that after redressal of the objections done twice by TCS-ION, another 85 objections were received from candidates for second time out of which 7 objections were accepted by TCS-ION on 22.12.2023 and thereafter again 12 objections were raised by the candidates for third time and of these 12 objections, 5 objections were accepted by the TCS-ION on 4.1.2024. Thus, in all 16302 objections were addressed by TCS-ION. Learned C.P.O has further submitted that in all 9072 objections have been held valid and thereafter in all 149 Questions have been corrected by TCS-ION for which equal marks have been given to all the candidates. Learned C.P.O has further submitted that vide G.A.D. G.R dated 4.5.2022, instructions have been given to carry the process of 'Normalization of Marks'. So it was carried out by TCS-ION using the 'Mean Standard Deviation Method'. Following the use 'Mean Standard Deviation Method', for 'Normalization of Marks', was done for both first Merit List published on 5.1.2024 and revised Merit List published on 11.03.2024.

13. Learned C.P.O has further submitted that vide G.A.D. G.R dated 4.5.2022 instructions have also been given to constitute 'District Selection Committee' under the 'Chairmanship' of 'District Collectors', for filling up the post of cadres which are at 'District Level'. The cadre of Talathi is a Sub-Divisional Cadre and thus posts of Talathi are required to be filled up at 'District Level' through District Selection Committee. Accordingly, taking into consideration the revised Merit List, district wise revised Select List and Waiting List were prepared by TCS-ION considering the social reservations as announced in the Advertisement dated 26.06.2023 issued by Additional Settlement Commissioner and Additional Director of Land Records, Pune, these were forwarded to the respective District Collectors which did not include those for 'PESA

Areas'. Accordingly, the 'District Selecton Committee' have published the final Select List and Waiting List on 14.3.2024.

14. Learned C.P.O submitted that in respect of Applicant in O.A 188/2024 there was no revision of Select List as Applicant is from Non-notified 'PESA Area' in Pune District. Learned C.P.O has further submitted that candidate by name Prasad Shinde, filed W.P.1744/2024 before the Hon'ble High Court, Aurangabad Bench as the objections to the answers solved by him were not resolved despite him raising objections three times. In the said Writ Petition No. 1744/2024, the Hon'ble High Court, Aurangabad Bench vide order dated 13.2.2024 had given directions to take decision on the representation filed by the candidate in view of the objections raised by him on the website of the Government of Maharashtra. Further in present O.A.No.188/2024 filed by candidate Bharat Durge, in which objections have been raised regarding 2 Questions which were not redressed earlier. Hence, in view of the Order dated 13.2.2024 of the Hon'ble High Court the TCS-ION Company was also directed by Respondent-State, Revenue & Forest Department to review the objections raised in the petitions filed in the Hon'ble High Court and this Tribunal. However, with a view to avoid further disputes directions were given by Respondent-State, Revenue and Forest Department, to TCS-ION to review all objections raised by candidates and then decide about them conclusively in addition to the objections directed to be decided by Hon'ble High Court, Aurangabad Bench and this Tribunal.

15. Learned Counsel Shri S.S. Dere, who is appearing for the Private Respondents has supported the stand of Respondent-State-Revenue and Forest Department. Learned Counsel for Private Respondents argued that this Tribunal is required to take

into account 'Article 16' of the 'Constitution of India' which guarantees equal opportunity to all in 'Public Employment'. The Respondent-State's, Revenue & Forest Department decision about revising its first Select List does not therefore does amount to breach of 'Article 14' & 'Article 16' of the 'Constitution of India'. The names of the Private Respondents are appearing in first Select List published on 23.01.2024 and also the revised Select List published on 14.03.2024 and therefore, their appointments are confirmed. However, due to pendency of the Original Applications and order of 'Status Quo', many candidates like Private Respondents could not be appointed as yet by respective 'District Selection Committee'.

Assessment:-

16. No directions were given by the Tribunal nor the Hon'ble High Court, Aurangabad Bench in the respective matters to consider the objections raised by the candidates regarding the questions. However, before the Hon'ble High Court, Aurangabad Bench the Respondent-State, Revenue and Forest Department has made statement that they will consider the objections and it was accepted by the Hon'ble High Court, Aurangabad Bench. In the case of **Sureshkumar (supra)**, two advertisements were issued to fill up the posts for the Supervisor Instructor (Engineering Trade and Non-Engineering Trade) and Supervisor Instructor (Employability Skill) and similar eligibility criteria was mentioned. In the selection for the post of Supervisor Instructor, the State Government changed the criteria of reservation in the midst of the selection process by taking policy decision to give effect to the special reservation in the form of horizontal one. Because of this reservation the horizontal reservation was treated like vertical reservation and as a consequence the clause condition in the reservation about consequence of non-fulfilling of the posts

mentioned for the special category was overturned without being any amendment, that is unilaterally, after declaration of the results. In the present case, there is no such material change but in the criteria given in the advertisement but by applying the same criteria to all the candidates merit list was shuffled. This cannot be said to be change in the terms and conditions of the rules of the game. To review its own decision by a body conducting the examination or Respondent-State due to the obvious and errors corrected by them is a different case. In the circumstances mentioned in the present applications it is not a change in the terms and conditions of the rules of the game.

17. In **Anil Kishore Pandit (supra)**, the cut-off age was 40 years as on 1.1.2011 appointed for the post of Amins on contractual basis and the cut-off age was 50 years as on 1.1.2011 from Economically Backward Class. The cut-off date of 40 years was changed from 1.1.2011 which was changed to 1.11.2011. The Hon'ble Supreme Court has obviously accepted the case of the original applicants, i.e., the Appellant that if at all the authority wanted to change the terms and conditions, they should have issued a fresh notice and should have informed the appellants. The submissions of the learned counsel for the applicants that in this process the Respondents after giving proper intimation to all the candidates should have corrected the objections or questions are not correct. The Respondents did not change any term or condition in the present recruitment process but they reviewed the objections raised by the candidates themselves. The question before us whether was it necessary for the Respondents to communicate their decision of reviewing the objections to the public at large before reviewing the said objections? We answer the same in negative. This cannot be a procedure to be followed when there is a public employment on such a large scale. In the

case of Anil Kishore Pandit the consequence of raising the cut-off date of age was that many persons who would have been benefitting of the change, the cut-off date of the age would have applied for the said post are deprived of or kept away for want of proper information by the authority. In the present case, what procedure is to be followed, what criteria are to be applied is completely a issue of public policy and within the domain of the executive.

18. The decisions of the executive are challenged before the Tribunal as it has power of 'Judicial Review'. However, this power is used with judicial restraint. Undoubtedly, decisions taken by executive are required to be interfered with, if at all they are found to be violative of 'Fundamental Rights'. Moreover, if there is a violation of any 'Legal Right' of any Applicant, then it is the duty of the Tribunal to step in and render justice to such Applicant. In the present case the name of the Applicants admittedly appeared in the first Merit list and Select List but were excluded from the revised Merit List and Select List for appointment to posts of 'Talathi'. Appearance of names of candidates in Select List definitely gives some assurance and hope to the candidates that they are going to be considered for appointment. However, no 'Legal Right' is accrued in favour of the candidates due to such inclusion in any Select List. We rely on the decision of the Supreme Court in the case of Bihar Staff Selection Commission & Ors Vs. Arun Kumar & Ors, AIR Online 2020 SC 525.

19. To set Question Papers prepare Answer Keys is always left entirely to wisdom of the Experts. However, we are in agreement with the grievance made by learned Counsel for Applicants that while preparing the Select List, the Respondent-State, Revenue and Forest Department should have been much more watchful and

cautious while dealing with the large number of objections raised by candidates with TCS-ION. But we disagree with the submissions that the Respondent-State, Revenue & Forest Department have deviated from observing procedures which had been laid down. Whether any 'Public Authority' conducting examination has power to review its own Select List is the basic Question? We have not come across any precedent prohibiting any Public Authority which conducts examinations for 'Public Employment' is bereft of were such inherent powers to correct errors if they have so happened and detected at any stage later by undertaking comprehensive review. Undoubtedly it was expected from Respondent-State, Revenue & Forest Department and TCS-ION that they would discharge their onerous obligations to conduct faultless examinations for 'Public Employment'. They should not have declared the first Merit List on 05.01.2023 or the first Select List on 23.01.2024 unless they had completed with utmost care and due diligence verification of each and every objection raised by the candidates.

20. In the case of **Ran Vijay Singh & Ors Vs. State of U.P & Ors, AIR 2018 SC 52**, the Hon'ble Supreme Court observed as under:-

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”

21. Considering facts and figures about large number of objections which were received by TCS-ION in relation to 5700 questions included in 570 Question Paper Sets from candidates who had raised 16302 objections in all in respect of 2831 questions and after considering 9072 objections, TCS-ION had found 146 questions were incorrect and so they corrected the Answer Keys. For such Written Examination procedure of 'Normalization of Marks' is applied in between and it is only after 'Normalization of Marks' meritorious candidates are placed in the Merit List and then included in Select List.

22. The O.A 188/2024 which was filed before this Tribunal and one Writ Petition No. 1744/2024 had been filed in the Hon'ble High Court, Aurangabad Bench were in respect of only 4 Questions. However, in the Writ Petition No. 1744/2024 before the Hon'ble High Court, Aurangabad bench, a statement was made by the Government Pleader about receiving of objections. Admittedly those objections were received from the candidate who was the Petitioner and therefore statement was made by Government Pleader that they will look into those objections of the Petitioners. Thus, it is true that no specific directions were given by 'Judicial Forum' to the Respondent-State, Revenue and Forest Department to review all the objections that had been received by TCS-ION.

23. It transpired from the submissions made by the learned C.P.O that 85 'emails' were subsequently received from candidates by the Respondent-State, Revenue & Forest Department, even though TCS-ION had closed the window for filing of objections which was available only from 29.09.2023 to 08.10.2023. Considering that initially 85 'emails', followed by another 12 emails had been received though all the objections were earlier considered by TCS-ION the Respondent-State, Revenue and Forest Department on their own decided to direct that all objections received earlier be reviewed as they were going to consider the objections raised in the Writ Petition No.1744/2024 as per decision of Hon'ble High Court, Aurangabad Bench. After considering objections mentioned in the Writ Petition No.1744/2024 and objection mentioned in the Original Application No.188/2024 filed before this Tribunal, the Respondent-State-Revenue and Forest Department and the TCS-ION decided to review all the objections which had been received from candidates during 29.09.2023 to 8.10.2023 and subsequently by 'emails'. In that process of review TCS-ION came across objections relating to 79 Questions which

were found to be correct which they have missed earlier while finalizing first Merit List published on 05.01.2024. Thus, a conscious decision by Respondent-State-Revenue & Forest Department was taken to cure mistakes with a view to ensure accuracy and correctness in evaluation of the Questions and Answers. Thus, reviewing its own decision itself to cure mistakes cannot be said to be a deviation from the process much less malafide. The reasons given by Respondent-State-Revenue and Forest Department are thus not found to be arbitrary. We would like to mention that the Additional Chief Secretary, Revenue & Forest Department, Additional Settlement Commissioner and Additional Director of Land Records, Pune and senior officials from TCS-ION, were personally present before us at the time of final hearing and they have candidly admitted that there was an error in not diligently carrying out the exercise of minutely considering all the objections raised by candidates meticulously before the first Merit List came to be published on 5.1.2024. However, the mistake was of curable nature and hence it cannot be labelled as deviation from the process or procedure or changing of rules of the game when the selection process had commenced. As it is a matter of 'Public Employment' so we have to see whether all candidates were treated equally in similar manner and thus there had been no violation of 'Article 14' of the 'Constitution of India' and also as it involves 'Public Employment' there was no breach of 'Article 16' of the 'Constitution of India'. All candidates were made aware of decisions taken by way of 'Publicity Notes' issued by Additional Settlement Commissioner and Additional Director of Land Records, Pune dated 27.9.2023, 6.12.2023, 22.12.2023, 4.1.2024 and 11.3.2024. The objections raised by candidates were decided by TCS-ION but whatever policy decision were taken from time to time the Respondent-State-Revenue and Forest Department were brought to the notice of all candidates by the 'Publicity Notes'

issued by Additional Settlement Commissioner and Additional Director of Land Records, Pune. It is not the case that some candidates were kept in dark about the verification of their objections and the publication of the first Merit List published on 5.1.2024 and first Select List on 23.1.2024 and then revised Merit List published on 11.3.2024 and revised Select List published on 14.3.2024.

24. We would like to point out that in the present matters immediately after the publication of the revised Select List on 14.3.2024, large number of 1044 candidates, from total 4793 posts of Talathis whose names featured in both the Select Lists have been appointed by respective 'District Selection Committee' on or before 16.2.2024. However, 'Status Quo' had been granted by this Tribunal on 27.3.2024. Thus, many candidates who are similarly placed and their names appear in both the Select Lists or second Select List cannot be deprived of appointments as per their merit. Thus, candidates whose names have appeared in both Select List or second Select List are to be treated equally being similarly situated forthwith given appointment like 1044 candidates appointed on or before 16.2.2024 to the posts of Talathi.

25. In respect of the applicant in O.A 188/2024, one of the questions which is answered correctly by the applicant, learned C.P.O explained the reasons why the TCS-ION took decision to delete that question and to award 2 Marks for the same to all the candidates. She explained that there was inconsistency in translated version of the question from English to Marathi. In English the question was about the persons who had Migrated to Pakistan. However, by translation in Marathi, it had conveyed as migrated to India. Therefore, the answer given for these questions were answered differently by candidates and therefore the decision

to delete the question was taken and grant of 2 Marks for the same were given to all the candidates. Thus, the Applicant has also received 2 Marks. The argument that others should not have been given 2 Marks is not sustainable as the data is not before us. Some of the candidates who have received 2 Marks may be like the Applicant who has given the correct answer. Thus, it is not the instance of giving unequal treatment.

26. Learned Counsel for the Applicants pray that the 'Status Quo' granted by this Tribunal on 27.03.2024 be continued for a period of One Week so as to enable them to move the Hon'ble High Court. Learned C.P.O opposes grant of such relief as none of the Applicants are in the revised Select List published on 14.03.2024 and all are in the Waiting List. Moreover, it will be very difficult for the Respondent-State, Revenue and Forest Department to keep 49 posts available while appointments to selected candidates are given by respective District Collectors. Thus, the prayer to continue the 'Status Quo' for a period of One Week is rejected.

27. In view of the above, we find no merit in the Original Applications and they are accordingly dismissed.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 05.07.2024
Dictation taken by : A.K. Nair.