

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.1188 OF 2024

- 1) Pravin Ramji Dighe)
Age : 34 years, Occ. Nil,)
R/o. Room No.1, Chawl No.41,)
Kokan Nagar, Opp. Navjeevan Society)
Chembur, Mumbai 400 074)
- 2) Tushar Padharinath Suryawanshi)
Age : 33 years, Occ. Nil,)
R/o. At Post Hiwarkhede, Tal. Chanded)
Dist. Nashik 423 101)

...Applicants

Versus

- 1) The State of Maharashtra,)
Through its Principal Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032)
- 2) The State of Maharashtra,)
Through its Principal Secretary,)
The Urban Development Department,)
Mantralaya, Mumbai 400 032)
- 3) The Directorate of Municipal)
Administration, Main Office at 7th floor,)
Belapur Bhavan, Navi Mumbai)
Corporation Building, Near CBD)
Belapur Railway Station, Belapur (E))
Navi Mumbai 400 614)
- 4) Maharashtra State Board of Secondary)
& Higher Secondary Education,)
Survey No.832-A, Final Plot No.178 &)
179, Near Balchitrawani, Behind)
Agharkar Research Institute,)
Bhamburda, Shivajinagar,)
Pune 411 004)

...Respondents

Mr. A.B. Chalak, learned Counsel for the Applicant.

Mr. A.J. Chogule, learned Presenting Officer for the Respondents

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

DATE : **26.09.2024**

J U D G M E N T

1. The Applicants have applied for the post of 'Accountant and Auditor' in establishment of Commissioner Cum Director, Municipal Administration, Navi Mumbai. The Applicants qualified the examination and their names were included in 'Merit List' published on 05.03.2024 and 'Provisional Selection List' published on 10.06.2024.

2. The Applicants thereafter completed the procedure of 'Document Verification' from 24.06.2024 to 11.07.2024. However, their names were not included in the Final Selection List published on 30.08.2024. They were held ineligible on the ground that they did not possess 'MS-CIT Certificate' or its Equivalent Qualification before the Cut-off Date i.e. 20.08.2023 for submission of 'Online Application Form'.

3. The Applicants therefore challenged the 'Final Selection List' published on 30.08.2024 by Commissioner Cum Director, Municipal Administration, Navi Mumbai thereby to the extent of excluding their names.

4. Learned Counsel Mr. A.B Chalak has submitted that Applicant No.1 Mr. Pravin Ramji Dighe in fact holds Equivalent Qualification which is known as the 'Government Certificate in Typing Computer Basic Course Examination, Pune'. Applicant has completed the said course within Six Months and it was

issued on 20.09.2023 by 'Commissioner, Maharashtra State Council of Examination, Pune'. Thus, Applicant had secured the Equivalent Qualification within One Month of the 'Cut-off Date' which was 20.08.2023.

5. Learned Counsel Shri A.B Chalak then stated that other Applicant No.2 Mr. Tushar Padharinath Suryawanshi does not hold such Government Certificate.

6. Learned Counsel submitted that both the Applicants not only hold the required 'Educational Qualification', but emphasized that they have knowledge of handling Computer Work and in this regard mentioned that Applicant No. 1 studied the subjects of Computer System and Application for One Year which is equivalent to the MSCIT and the Applicant No. 2 submitted the ITI in Computer Operator and Programming Assistant and Master Degree of Commerce (in which Applicant had studied the Subjects of Introduction to Cyber Security for 2 Years) and having the Qualification which is equivalent to the MS-CIT.

7. Learned Counsel further submitted that Clause 5.1 of Advertisement dated 11.07.2024 is about 'Other Eligibility' while Clause 5.1.3 is necessary 'Educational Qualification'. He has submitted that condition of Cut-off Date is applicable for only requirement of Educational Qualification and not for Other Eligibility which includes other Qualification like having MS-CIT.

8. Learned Counsel has thereupon further submitted that earlier the State Government has taken a stand to grant period of Two Years after the appointment to obtain MS-CIT Certificate and many other Administrative Departments have in past followed this policy and granted that extra period to the candidates to secure 'MS-CIT' Certificate within upto Two Years after the

date of their appointment. Further he cited the recent instances of implementation by Greater Mumbai, Pune & Panvel Municipal Corporations.

9. Learned Counsel thereafter contended that this policy of the State Government is required to be implemented in the present case and that Applicant No. 2 will appear for the MS-CIT Examination and will get the 'MS-CIT Certificate'. He relied on the decision of the Hon'ble High Court, Uttar Pradesh dated **10.3.2021 in Mohit Kumar S/o Sri Ranvir Singh & Ors Vs. State of U.P & Ors. Service Single No. 3597 of 2020**

10. Learned CPO for Respondents per contra has submitted that the Advertisement dated 11.07.2023 published by Commissioner Cum Director, Municipal Administration, Navi Mumbai, had clearly mentioned that therein that the candidates should possess 'MS-CIT Certificate' before the 'Cut-off Date' which was fixed as 20.08.2023 and thus there is no reason for ambiguity to the candidates in understanding this condition of 'Other Eligibility'. Under such circumstances, no concession can be given to the present Applicants as it will be against the spirit of Article 14 & Article 16 of the 'Constitution of India'. In support of her submissions learned C.P.O. has relied on the judgment of this Tribunal dated **14.3.2022 in O.A 124/2021, Shri Mahesh V. Ghuge Vs. The State of Maharashtra & Ors.,**

11. The submissions of Learned Counsel Shri A.B Chalak and C.P.O were considered. At the outset, the requisite Eligibility Qualification & Other Eligibility criteria in Advertisement dated 11.07.2024 for the post of Accountant and Auditor, Group-C is required to be looked into, in view of the submissions of the learned Counsel for the Applicants. There is both Physical Eligibility and Educational Eligibility to be fulfilled by candidates. The prescribed Educational Qualification for which Cut-off Date is made applicable under Clause 5.1.3 is reproduced as follows:-

“५.१.३. अर्हता/पात्रता गणण्याचा दिनांक

विहित शैक्षणिक अर्हता/व्य/अनुभव/पात्रता विषयक अर्हता धारण केल्याचा दिनांक हा अर्ज स्विकृतीचा अंतिम दिनांक गणला जाईल.”

As per this Clause 5.1.3, this Cut-off Date is the last date for acceptance of Online Application Forms which was 20.8.2023. Clause No 5.1 and Clause No. 5.1.1 were relied by the Learned Counsel for the Applicants. Clause No. 5.1 states about Other Eligibility which it is described in Clause 5.1.1 as knowledge of handling Computer Work is reproduced below:-

“५.१ इतर अर्हता (सर्व पदासाठी)

५.१.१ संगणक हाताळणी / वापराबाबतचे ज्ञान:-

१. महाराष्ट्र नगरपरिषदा, नगरपंचायती व औद्योगिक नगरे राज्यसेवा (समावेशन, नेमणूका व सेवेच्या शर्ती) नियम, २००६ अंतर्गत सर्व राज्यसेवेतील पदांकरिता तसेच महाराष्ट्र नगरपरिषदा, नगरपंचायती व औद्योगिक नगरी राज्यसेवा स्वच्छता निरीक्षक (समावेशन नेमणूका व सेवेच्या शर्ती), नियम, २०१९ नुसार श्रेणी-क च्या पंदावरील नेमणूकीसाठी एम.एस.सी.आयटी परीक्षा किंवा समकक्ष परीक्षा आणि शासन वेळोवेळी निश्चित करेल अशी परीक्षा उत्तीर्ण

12. Learned Counsel for the Applicants submitted that the Cut-off Date of 20.08.2023 which was fixed only for the Educational Qualification and was not made applicable for Other Eligibility, i.e., MSCIT Certificate cannot be accepted in view of the language used in both Clauses No. 5.1 and Clause No. 5.1.1. It is true that knowledge of handling Computer Work is not the requisite Educational Qualification but it is certainly Other Eligibility criteria under Clause 5.1.1. However, unless candidates regained “अर्हता” they certainly cannot be considered as having “पात्रता”. “अर्हता” is “Eligibility” and “पात्रता” means “Qualified”. Clause 5.1.3 states that the last date of accepting the Online Application Form was to be treated as the last date of possessing the requisite Educational Qualification and Other Eligibility.

13. Both the words “अर्हता” / “पात्रता” co-jointly are mentioned in Clause 5.1.3. Thus, there is no scope to have any other interpretation that it was for Educational Qualification that Cut-off Date had been fixed and other than the Educational Qualifications which is Other Eligibility Criteria such as knowledge of handling Computer Work under Clause 5.1.1, no Cut-off Date is fixed. Thus, the Cut-off Date for both was one and the same, i.e., last date of acceptance of the On-line Application Form viz, 20.8.2023.

14. The Respondent-State Government has fairly admitted that earlier some concession of Two Years after date of appointment of candidates was given to obtain the ‘MSCIT Certificate’. However, as per G.R dated 16.7.2018, now Six Months course has been prescribed. Further concession that was given to obtain ‘MSCIT Certificate’ neither grace period of Two Years and that concession was given depending on the erstwhile availability of the facilities like Centers of Computer Training. However, as on today all over in Maharashtra, large number of Centers for Computer Training are available. It is not case of the Applicants that they are staying at in accessible remote areas where such ‘Computer Training Centers’ is not available even today. Therefore, unless the specific Policy Decision is taken by the concerned Administrative Department in respect of candidates appearing in all Public Examination; no relaxation by exception can be given to the candidates like Applicants in securing MSCIT Certificate.

15. In the case of **Mohit Kumar (supra)**, the issue before the Hon’ble Uttar Pradesh High Court was about the equivalence of qualification to CCC Certificate issued by DOEACC Society. The CCC Certificate is pertaining to technical knowledge of Computer and the Hon’ble High Court has held that though the Petitioners did not have the CCC Certificate, but they possess equivalent qualification issued by other recognized Institutions which make

them suitable to fulfill the requirements of employer for the post of in question and the Petition was allowed. In the present case the issue of equivalence is not involved. It is admitted position that the MSCIT Certificate is issued to Applicant No. 1 on 20.9.2023 and Applicant No. 2 did not have the Certificate till today. Therefore, it is a misplaced reliance by learned counsel for the Applicants Mr Chalak.

16. On the other hand, learned C.P.O relied on the decision of this Tribunal in the case of **Shri Mahesh V. Ghuge (supra)**, in which the issue of giving concession to obtain Computer Certificate was also dealt with. It was held that earlier when Computer education was not easily available to the people at large in remote areas, concession was given by the Government in the year 2003. However, in Ghuge's case the advertisement was published in the year 2019, i.e., after 16 years after the G.R dated 19.3.2019 of giving concession of Two Years was issued. At the relevant time educational facility was easily available in the remote and rural areas and therefore the concession which was given by the said G.R was not made applicable in the case of Shri Ghuge on the ground that there is no specific mention about it in the advertisement. The Tribunal by relying on the judgment of the Hon'ble Supreme Court in the case of **Bedanga Talukdar Vs. Saifudaullah Khan & Ors, AIR 2012 SC 1803** has held that if no relaxation is mentioned in the advertisement specifically, then that cannot be granted as it is contrary to the mandate of equality contained in Articles 14 & 16 of the Constitution of India.

17. We do appreciate that Applicant No. 1 was taking the 'Computer Training' when he filled up the Application Form for post of Accountant & Auditor, Group-C in establishment of Commissioner Cum Director, Municipal Administration, Navi Mumbai. However, Applicant was not holding the MSCIT Certificate on 20.8.2023, but got it One Month thereafter, i.e., on 20.9.2023. We do not understand that Applicant No. 1 is in fact having the requisite

Educational Qualification when the result was declared. However, learned C.P.O has emphatically pointed out that both the Applicant No. 1 and Applicant No. 2 in their Application Form submitted False Information that they were holding 'MSCIT Certificate'. She pointed out that unless there is a positive information about fulfilling the requisite Other Eligibility Criteria the Application Forms are never accepted and further processed by the Computer, System used to conduct examination for post of Accountant & Auditor, Group-A in establishment of Commissioner Cum Director, Municipal Administration, Navi Mumbai.

18. Thus, both the Applicants No 1 and Applicant No. 2 had submitted False Information about fulfilling criteria of Other Eligibility which they did not possess at the time of filling up the Application Form. Therefore, we are unable to hold the case of the Applicant No. 1 in his favour. Also case of Applicant No. 2 appears to be clear case of submission of not only 'False Information' but with malafide intent to mislead the Computerized System into accepting his Online Application Form.

19. Article 16 of the Constitution of India states about equal opportunity has to be provided to all in Public Employment. It is true that if relaxation is given to Applicant No. 1 in respect of Cut-off Date for fulfilling criteria of 'Other Eligibility' then why it cannot be denied to other candidates who may have been barred on similar grounds. Though such other candidates have not approached the Tribunal, the possibility of them approaching on this ground alone cannot be ignored. Moreover, still other candidates who would have by mistake written in their Online Application Form about holding MSCIT Certificate or any Other Qualification, then their applications would also have been accepted and they would have been declared as eligible to participate in the recruitment process and appear for the Examination for post of Accountant

and Auditor, Group-C in establishment of Commissioner Cum Director, Municipal Administration, Navi Mumbai.

20. In view of the above, we find no merit in the Original Application and the same is accordingly dismissed.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 26.09.2024.

Dictation taken by : A.K. Nair.