

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.462 OF 2019

SUBJECT : SELECTION

- 1) Shri Mohan Pralhad Gurav,)
R/o at Dagadwadi, Post Nirwangi,)
Taluka Indapur, Dist: Pune-413114.)
- 2) Shri Dattatraya Kaluram Tope,)
R/o at Post Khapurdi Road, Waki BK II,)
Taluka Khed, Dist: Pune-410501.)
- 3) Shri Sumit Babasaheb Sarvade,)
R/o Building No.66/1759, Kannamawar Nagar,)
No.2, Vikhroli (E), Mumbai-83.)
- 4) Shri Mohan Ramchandra Nandre,)
R/o Shriram Sankul Raw House, A-2,)
Radhasona Nagar, Khutwad Nagar, Near)
Hanuman Mandir, Kamat Wade Nashik-422008.) ... Applicant

Versus

- 1) The Directorate of Municipal Administration,)
Office address, Address: C/1, Sir Pochkhanwala)
Marg, Worli, Shivaji Nagar, Worli, Mumbai-30.)
- 2) The State of Maharashtra,)
Through the Director/ officer in charge of)
Maharashtra Information and Technology Corp.)
Ltd., Room No.514, 5th Floor, Annex Building,)
Hutatma Rajguru Chowk, Mantralaya, Mumbai-32)



- 3) The State of Maharashtra through)
 Nitin Prakashan, Sugam Marathi Grammer Lekhan,)
 1525, Sadashiv Peth, Suvidha Smita Apartment,)
 Near Tilak Samark Mandir, Pune-411030.)
- 4) The Urban Development Department ,)
 Through the Secretary, Mantrayala, Mumbai-32.) **Respondents**

Shri R.M. Kolge, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents 1,2 &4.

None for the Respondent No.3.

CORAM : Smt. Justice Mridula R. Bhatkar (Chairperson)
 Shri P.N Dixit (Vice-Chairman) (A)

DATE : 04.12.2020.

PER : Smt. Justice Mridula R. Bhatkar (Chairperson)

J U D G M E N T

1. Heard Shri R.M. Kolge, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents and None for the Respondent No.3.

2. The respondent issued the advertisement in April 2018 for the post of Accounts and Auditor Class-III, Grade-III post. All 422 posts were required to be filled up through vertical reservation and out of 422, 47 posts were required to be filled in through SC category and 89 posts through OBC category from 07.04.2018 to 27.04.2018 for Online preliminary examination which was held by Maharashtra Municipal

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Services Examination on 18.05.2018. Further, main examination was held on 19.9.2018. However all the candidates could not secure cut off marks in their respective categories and therefore were not selected.

3. The selection list was published on 19.11.2018 and the names of all these candidates were not included in the said list. The Applicants had knowledge that one Shri. Avinash Rathod & ors. had filed O.A. 1025/2018 before the Division Bench of Nagpur Bench of Maharashtra Administrative Tribunal wherein they have challenged the correctness of one question No.33 and it was held by the Division Bench that the answer key given to that question was incorrect as the correct answer was option 'C' and not option 'D'. O.A.1025/2018 which was decided on 03rd March 2020, Respondents State were directed to comply the said order within three months.

4. The Applicants found they have similar case and thereafter by filing this O.A. they approached this Tribunal. The learned Advocate for the Applicant Shri Kolge has submitted that the case of the Applicants falls squarely within the order of O.A. 1025/2018 as the facts of both candidates are same. These Applicants have also chosen option 'C' and they were also given less marks i.e. 0.25 negative and they missed one marks for not giving the correct answer. He pointed out that the copies of the response sheets of all the four Applicants and the answer given by respective Applicants in response sheets are correct. He further submits that if they all are given 1.25 additional marks for answering the question, then all the Applicants will be entitled to get selected.

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5. The learned P.O. relied on Affidavit-in-reply filed by Muthukrishnan Sankarnarayanan, Commissioner & Director in the Directorate of Municipal Administration and submitted that paper setting and examination is conducted by Mahapariksha Portal and submitted that the Respondents have relied on the key given by the experts of Mahapariksha Portal. We have gone through the response sheets of all the Applicants. All the Applicants to the impugned question have chosen option 'C', the same issue~~d~~ was raised before the Nagpur Bench of the Maharashtra Administrative Tribunal in O.A.1025/2018. The Nagpur Bench sought opinion of the experts committee consisting of Dr. Anil Sapkal, Professor & HOD (Marathi, Dr. Vandana Mahajan, Professor (Marathi Department) and Dr. Alka Bhatkar, Assistant Professor (Marathi Department), University of Mumbai. The committee has given opinion that the option No.3 was the correct and in support the committee has referred to Marathi Books written by Shri M.R. Walambe, Shri G.H. Kelkar and Dr. Lila Govilkar.

6. The Tribunal thereafter held that the Applicants were entitled to get one mark for giving correct answer to the question and are also entitled for 0.25 marks which was deducted for wrong answer.

7. In view of this, nothing remains in this Original Application and similar order as O.A. 1025/2018 is passed which is as follows:-

- a) All the four Applicants are entitled for one mark for giving correct answer as option 'C' for the impugned question. They are also entitled for 0.25 marks which was deducted for giving wrong answer. Thus all the four candidates are entitled to get 1.25 additional marks.

- b) O.A. is Allowed. All these Applicants are to be added in the select list as per the cut off marks in their Respective categories.

Sd/-

(P.N. Dixit)
Vice-Chairman

Sd/-

(Mridula R. Bhatkar, J.)
Chairperson

Mumbai

Date : 04.12.2020

Dictation taken by : N.M. Naik.