

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.738 OF 2024  
With  
ORIGINAL APPLICATION NO.746 OF 2024**

**DISTRICT: Mumbai  
Subject: Selection Process**

\*\*\*\*\*

**1) O.A.No.738 of 2024**

Ms Sonali M. Patil )  
Age: 27 yrs, Occ: Junior Clerk, )  
R/at 1907/1A Building, Century Mill )  
Mhada Colony, Lower Parel 400025. )...**APPLICANT**

**VERSUS**

1. The State of Maharashtra, )  
through the Secretary, )  
Urban Development Dept )  
Mantralaya, Mumbai 400 032. )  
2. The Commissioner and Director, )  
Directorate of Municipal )  
Administration )  
7<sup>th</sup> floor, Belapur Bhavan, near CBD )  
Belapur Railway Station, Belapur (E))  
Navi Mumbai 400 614. )...**RESPONDENTS**

**2) O.A.NO.746 OF 2024**

Ms. Ujwala G. Shinde )  
Age: 32 yrs, R/at Post Udapur, Junnar, )  
Dist. Pune 412 409. )...**APPLICANT**

**VERSUS**

1. The State of Maharashtra, )  
through the Secretary, )  
Urban Development Dept )  
Mantralaya, Mumbai 400 032. )  
2. The Commissioner and Director, )  
Directorate of Municipal )

Administration, 7<sup>th</sup> floor, Belapur )  
Bhavan, near CBD Belapur Railway )  
Station, Belapur (E), )  
Navi Mumbai - 400 614. )...**RESPONDENTS**

Shri S. S. Dere, learned Counsel for the Applicant in O.A.No.738 of 2024.

Shri A. S. Gaikwad, learned Counsel for the Applicant in O.A.No.746 of 2024.

Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

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

**Reserved on** : **25.06.2024**

**Pronounced on** : **28.06.2024**

### **J U D G M E N T**

1. The Applicant in O.A.No.738/2024 prays that Respondents be directed to consider the Applicant for appointment to the post of 'Tax Assessment and Administrative Officer, Group-C' as per Advertisement dated 11.07.2023 of 'Maharashtra Municipal Council State Service Group-C' and if found suitable as per merit, the Respondent No.2 may appoint the Applicant, if no deliberate mistake has been committed by Applicant while filling 'Online Application Form'.

2. The Applicant in O.A.No.746/2024 challenges the process of selection and seeks direction to Respondent No.2 for considering her candidature as a matter of right to be appointed through 'OBC (Female) Category' and / or from 'Open (Female) Category' based on the marks secured by the Applicant. Ld. Counsel submits that Applicant belongs to 'OBC' Category and secured 139.29 marks in the Examination conducted by Respondent No.2 for post of 'Maharashtra Municipal Audit

and Accounts Service Group-C (Grade A, B, C)' for general posts of all categories pursuant to the Advertisement dated 11.07.2023 of Commissioner-cum-Director of Municipal Administration.

3. The learned Counsel for Applicants submit that the Respondent No.2 had issued common Advertisement No.01/2023, dated 11.07.2023 for various posts of 'Maharashtra Municipal Council State Service Group 'C'. The Applicant in O.A.No.738/2024 applied for the post of 'Tax Assessment and Administrative Officer Group C'. Accordingly, she had intended to fill the Online Application Form by opting for 'Female EWS' Category. However, while filling up the Online Application Form, the Applicant committed an inadvertent mistake as she ticked 'No' against the column of 'Do you want to apply under 'Women's Reservation' and as a result of the same she could not be shortlisted in zone of consideration for selection for the post of 'Tax Assessment and Administrative Officer Group C'. The Applicant in O.A.No.746/2024, applied for the post of 'Maharashtra Municipal Audit and Accounts Service, Group-C (Grade A, B, C)'. Accordingly, she had also intended to fill the Online Application Form by opting for 'OBC (Female)' and/or 'Open (Female) Category'. However, while filling up the Online Application Form, the Applicant committed an inadvertent mistake as she ticked 'No' against the column of 'Do you want to apply under 'Women's Reservation' and as a result of the same she could not be shortlisted in zone of consideration for selection for the post of 'Maharashtra Municipal Audit and Accounts Service, Group-C'.

4. Shri S.S. Dere, learned Counsel for Applicant in O.A.No.738/2024 further submits that the Respondent No.2 conducted Online Examination on 26.10.2023 for 200 marks, and thereafter, 'Provisional Merit List' was published on 05.03.2024 wherein Applicant has secured '181.92030' marks. After verifying the 'Provisional Merit List' and 'Cut off Marks', the Applicant came to know that her Online Application Form

had not been considered from 'EWS Female Category'. Ld. Counsel submits that Applicant inadvertently made mistake as she was not aware that she had wrongly ticked the 'No' option against the column of 'Do you want to apply under Women's Reservation?' Therefore, the Applicant made representation dated 06.03.2024 to Respondent No.2 informing that she inadvertently made mistake by choosing 'No' option which conveyed that she does not want to apply under the 'Women's Reservation'. Ld. Counsel for Applicant further submits that Applicant is meritorious and had secured 181.92030 marks when the Cut off Marks for the 'EWS Female Category' is 178.66875 marks. Ld. Counsel states that due to inadvertent mistake, the Applicant though meritorious has not been selected for the post of 'Tax Assessment and Administrative Officer Group-C'.

5. Shri A. S. Gaikwad, learned Counsel for Applicant in O.A.No.746/2024 submits that Online Examination conducted by Respondent No.2 on 24.11.2023 for 200 marks for post of 'Maharashtra Municipal Audit and Accounts Service Group-C (Grade-A, B and C)' and 'Provisional Merit List' was published on 05.03.2024 wherein the Applicant's name did not appear but it is shown in the 'Waiting List' at Sr.No.6 for 'Open (Female) Category' and 'Open (Male) Category' at Sr. No.11. Learned Counsel submits that though Applicant secured 139.29 marks out of 200 marks and as Applicant is 'Female', her candidature has been wrongly considered from 'Open' and 'OBC (Male) Category' instead of 'Open (Female) Category' and/or 'OBC (Female) Category'. Learned Counsel for Applicant further contended that while filling up Online Application Form, the Applicant inadvertently made mistake, as she was not aware that she had wrongfully ticked 'No' option against Column of 'Do you want to apply under 'Women's Reservation'. Thereafter, Applicant made Representation by letter dated 11.06.2024 to the 'Member Secretary, MPSC' to consider her candidature from 'Women's Reservation' which was denied to her only due to inadvertent

mistake committed while filling up Online Application Form. Learned Counsel submits that Applicant should be given an appointment either from 'Open (Female) Category' and/or from 'OBC (Female) Category' as the Applicant has secured highest marks amongst the 6 'OBC (Female) Category' candidates and also 11 'Open (Female) Category' candidates. The Applicant secured 139.29 marks in the said examination. Admittedly, the 'Cut-off Marks' of 'OBC (Female) Category' is 127.49 marks and for 'Open (Female) Category' is 133.71 marks.

6. Learned Counsel for Applicants placed reliance on the judgment of the **Hon'ble High Court in 2016 SCC Online Del 6553 (Ajay Kumar Mishra Vs Union of India)**, decided on 23.12.2016 in which it is held that, if there is a mere inadvertent error then penalizing the candidates by cancelling the candidature on the ground of typographical error is arbitrary, unreasonable, harsh and disproportionate to its gravity of the lapse. Ld. Counsel for Applicant also states that present O.A. is covered with the judgment of the Hon'ble **High Court of Judicature at Bombay Bench at Aurangabad in W.P. No.393 of 2026 (Mrs. Vijaya Milind Patil V/s State of Maharashtra & Ors.)** decided on 22.01.20216 in which it has been held that Respondent cannot reject the candidature of the candidate on the ground that he has wrongly filed the information in the application form. In the said matter, a candidate mentioned 'No' against the column of the 'Open Female' reservation, however, the Hon'ble High Court allowed to participate in further selection process. Ld. Counsel also placed reliance on Para 22 of the judgment of the Hon'ble Apex Court in the matter of **State of Utter Pradesh Vs. Arvind Srivastava in Civil Appeal No.9849 of 2022**. Ld. Counsel also points out Order passed by this Tribunal in **O.A.No.1165 of 2022 (K.N. Tadvi v/s Secretary, MPSC)**, dated 23.11.2022 in which the Tribunal had allowed the Applicant to fill up the Application Form for 'State Service Main Examination' with correct information qua 'Domicile' and further permitted the Applicant to appear for Main Examination

pursuant to Advertisement dated 19.09.2022. Subsequently, the MPSC challenged Order in O.A.No.1165/2022 before the Hon'ble Bombay High Court by filing **W.P.No.445 of 2023**. The W.P.No.445/2023 was dismissed by the Hon'ble Bombay High Court by Order dated 16.01.2023.

7. The learned CPO for Respondents submitted that she has gone through all the Judgments & Orders relied by Learned Counsels for both the Applicants. Ld. CPO on instructions submits that 'Provisional Select List' was published on 10.06.2024 and Original Applications were filed on 14.06.2024 and 19.06.2024 respectively. She submitted that as per the 'Provisional Select List', the candidates have been called for 'Verification of Document' from 01.07.2024 to 16.07.2024. Ld. CPO submits that in case of **K.N. Tadvi's case** (cited supra) and **Mrs. Vijaya Milind Patil's** case (cited supra), the selection process was halfway through and in present case it stands substantially completed as not only 'Provisional Select List' has been published but also candidates have been called for 'Verification of Documents'.

8. All the facts are admitted by the Applicants. In the column, whether the Applicants were given option to opt for 'Women Reservation', both the Applicants wrote 'No'. Whether or not the Applicants wanted to avail of benefit of 'Women Reservation' is a matter of 'Choice'. The candidate had to take decision about the option of 'Women's Reservation' by choosing 'Yes' or 'No'. In the present cases both the Applicants who have applied their minds to correctly fill up all other information in the Online Application Forms were free to decide and expected to fill up correct option but consciously refused to avail of 'Women Reservation'. The submissions of learned Counsels that writing 'No' was a bonafide mistake cannot be accepted at all as Online Application Form filled up by the Applicants was always available with Applicants and they could have definitely pointed out this mistake

immediately after submitting the Online Application Forms and much before the 'Provisional Merit List' was published on 05.03.2024. Further in 'Clause 1.4.4' of the Advertisement dated 11.07.2023 of Commissioner-cum-Director of Municipal Administration, there is a specific direction that whatever is mentioned in the Online Application Form will be considered and claims made would not be considered once Online Application Form has been submitted and no further change or correction will be accepted. Though the Applicants could have still made representations to Commissioner-cum-Director of Municipal Administration or approached the Tribunal immediately, the stand of Applicants that they came to know about their mistake of writing 'No' as an option for 'Women Reservation' appears to be an afterthought much later upon publication of 'Provisional Select List' on 10.06.2024 and the Original Applications filed before the Tribunal thus appears to be 'Chance Petitions'.

9. Further, as the 'Provisional Merit List' was published on 05.03.2024 both Applicants were well aware about the Cut-off Marks and also the marks secured by them. Yet they did not take legal recourse. The Applicants submitted representations to the Commissioner-cum-Director of Municipal Administration. There was no need to wait for the reply from Respondent No.2 for more than a month's time and the Applicants could have approached this Tribunal well within time. However, the Applicants waited for more than three months till the 'Provisional Select List' was published on 10.6.2024 and they have filed the present Original Applications on 18.6.2024 and 20.6.2024. The process of recruitment has already reached upto stage of 'Verification of Documents' as pointed out by learned C.P.O. In the present recruitment process, there was only one 'Written Test' and no other stages like 'Main Examination' or 'Interview'. The 'Provisional Select List' was declared on 10.06.2024. Now, the candidates are waiting for 'Verification of Documents' to be completed from 01.07.2024

to 16.07.2024 and if their documents are found as per the requirements, they will be considered as eligible for appointment. The Applicants have thus approached the Tribunal rather late and this is one more ground to reject the Original Applications.

10. Learned CPO has rightly pointed out that in the case of ***K.N Tadv*** (supra) decided by this Tribunal by Judgment and Order in O.A.No.1165 of 2022, dated 23.11.2022, which had allowed for correction in the Application Form, the nature of correction was a decisive factor. In the column relating to status of 'Domicile', the question was put 'Domicile Details' and it was mentioned 'No'. This fact of 'No' was found incorrect and to be bonafide mistake by Applicant as a 'Documentary Proof' contrary to this 'No' was available to verify its truthfulness from 'Domicile Certificate'. Further Applicant in O.A.No.1165/2022 had approached this Tribunal well within time as observed in W.P.No.445/2023, when the said Order dated 23.11.2022 in the case of ***K.N Tadv*** was challenged by MPSC before the Hon'ble Bombay High Court.

11. Further the decision of the Hon'ble Supreme Court in the case of ***State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors, (2015) 1 SCC 347***, relied on by the learned Counsel for the Applicants is not applicable to the facts of the present cases.

12. In view of the above, we find no merit in the Original Applications and they are dismissed. No Order as to Costs.

Sd/-  
**(Debashish Chakrabarty)**  
**Member (A)**

Sd/-  
**(Mridula Bhatkar, J.)**  
**Chairperson**

Place : Mumbai  
Date : 28.06.2024  
Dictation taken by : V.S. Mane/A. Nair