

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
(CIVIL APPELLATE JURISDICTION)

WRIT PETITION NO.6637 OF 2014

1 Shri Suhas Sudhakar Rao Lavhekar,
Age: 34 years,
Residing at Building No.14,
Flat No.303, Vijay Park,
Kasarvadli, Ghod Bunder Rd.,
Thane 400 615

2 Shri Pankaj Kisan Chatki
Age: 33 years,
R/o C/o Khushab Rao More,
Near Sukh Sagar Apartment,
Chuhan Colony, Sarkar Nagar,
Chandrapur 442 401

3 Shri Someshwar Dashrath Navhat
Age: 34 years,
R/o 7A Bhaktivinod Apartments
Vrindawan Colony,
General Vaidya Nagar,
Poornima Stop, Nashik 422 011

4 Shri Vijay Vitthal Rao Chandankar
Age: 34 years,
R/o Bageshri, M-8-4, V.H. Society
Yawatmal

Petitioners

Versus

1 The Maharashtra Public Service
Commission,

through its Secretary, having office at
3rd Floor, Bank of India Building,
M.G. Road, Hutatma Chowk,
Mumbai 400 001.

- 2 The State of Maharashtra
 through the Secretary
 Medical Education & Drugs Department,
 Mantralaya, Mumbai
- 3 The Commissioner,
 Food & Drugs Administration,
 Survey No.341, Bandra Kurla Complex
 Bandra (E), Mumbai 51
- 4 Mrs. Lorna Dorothy Pinto
 working as Drugs Inspector at Pune
 R/o 7, Flaming C.H.S.
 1 Domnic Colony, Orlem
 Malad, Mumbai 400 064
- 5 Miss Ashwini Annasaheb Pawar
 working as Analytical Chemist,
 R/o B 297/2, Govt. Colony,
 Bandra (E) Mumbai 400 051
- 6 Shri Rajendra L. Patil,
 working as Drugs Inspector at Thane
 R/o 11, Narmada Building,
 Mukund Society, Anand Park,
 Near Vrindavan, Thane (W) 400 601

- 7 Shri Rajesh P Choudhari
working as Drugs Inspector at Thane
R/o 301, Tirupati Apt
Opp Oswal Park, Pokharan Rd No.2
Thane (W) 400 601
- 8 Mr. Mahesh Ashok Gadekar
- 9 Mr. Ashok Tukaram Barde
- 10 Mr. Milind Krushnarao Kaleshwarkar
- 11 Mr. Mahesh Vinayakrao Deshpande
- 12 Mr. Ganesh Ramchandra Rokade
- 13 Mr. Shyamsunder Vaijanath Pratappawar
- 14 Mr. Rohit Shankar Rathod
- 15 Mr. Umesh Bhaurao Gharote
(Addresses of these respondents are not
known, when the said is supplied by
MPSC, they will be served.)

Respondents

WITH

WRIT PETITION NO.6666 OF 2016

Shri Rohit Shankar Rathod

Petitioner

versus

The Maharashtra Public Service Commission
through Secretary And Ors

Respondents

WITH

WRIT PETITION NO.277 OF 2015

Mahesh Ashok Gadekar

Petitioner

versus

The Maharashtra Public Service Commission

through Secretary And Ors

Respondents

WITH

WRIT PETITION NO.7034 OF 2016

Shri Kautik Dasharath Shirole

Petitioners

versus

The Maharashtra Public Service Commission

through Secretary And Ors

Respondents

Mr. P.V. Thorat with Ms. Pooja Thorat advocates for petitioner in W.P. No.6637/2014

Mr. N.P. Dalvi advocate for respondent No.1

Mr. A.P.Shinde advocate for petitioner in W.P.No.7034/2016

Mr. C.P. Yadav, Assistant Government Pleader in all the matters.

CORAM : **R.M. BORDE &**
A.S. GADKARI, JJ

Reserved on : 28.2.2017.

Pronounced on : 4th May 2017

JUDGMENT

(Per: R.M. Borde, J)

1] Heard.

2] Rule. With the consent of the parties, petitions are taken up for final disposal at admission stage.

3] The petitioners are objecting to the Judgment and order passed by the Maharashtra Administrative Tribunal (herein after referred to as 'MAT' for the sake of brevity) dated 1.4.2014 in Original Application No.820/2013. The petitioners are also seeking direction to respondent Nos.2 to issue letters of appointment to them. During pendency of the petitions, process for selection of the candidates was pursued by the Maharashtra Public Service Commission (herein after referred to as 'MPSC' for short) afresh and a list of selected candidates is declared on 18.3.2016. The petitioners are praying for quashment of the said selection list dated 18.3.2016 as a consequence of quashment of the order passed by the MAT.

4] The petitioners are the candidates selected by MPSC and their names have been recommended for appointment to the post of Assistant Commissioner (Drugs). The petitioner No.1 and

3 are selected as against unreserved vacancies, whereas petitioner No.2 belongs to other backward class (OBC) category and petitioner No.4 is selected from amongst Scheduled Caste (SC) category.

5] An advertisement for selection of 12 candidates for the post of Assistant Commissioner (Drugs) was issued by respondent No.1 MPSC on 4.1.2012. Out of 12 posts, seven posts are prescribed for open category and from amongst open category candidates, two posts are prescribed for women and one for sports category person. Thus there is horizontal reservation for three posts from amongst open category. One post is earmarked for SC category, whereas two posts were reserved for scheduled tribe (ST) category. From amongst aforesaid categories, one post is earmarked for ST (women) category, one post is earmarked for VJ(A) category, whereas another post is earmarked for OBC category. The State of Maharashtra has published Rules framed in exercise of powers conferred under Article 309 of the Constitution of India, regulating recruitment to the posts of Joint Commissioner (Drugs) Group A, Assistant Commissioner (Drugs) and Drugs Inspector Group B in the Food & Drugs Administration under Medical Education & Drugs Department of the Government of

Maharashtra. These Rules are called 'Joint Commissioner(Drugs), Assistant Commissioner (Drugs) & Drugs Inspector in the Food & Drugs Administration, Maharashtra State (Recruitment) Rules, 2002'. Rule 4 prescribes procedure, qualification and experience for appointment to the post of Assistant Commissioner (Drugs) in the Food & Drugs administration Department which reads thus:-

" 4. Appointment to the post of Assistant Commissioner (Drugs) in the Food & Drugs Administration, shall be made either:-

(A) by nomination of a suitable person, on the basis of seniority-cum-merit from amongst the persons holding the post of Drugs inspector in the Food and Drugs administration, having not less than three years regular service in that post; or

(B) by nomination from amongst the candidates who, -

(a) unless already in the service of Government, are not more than 40 years of age and

(b) possess qualification and experience prescribed for as under:-

(i) degree in Pharmacy or Pharmaceutical Chemistry or in Medicine with specialisation in Clinical Pharmacology or Microbiology from a University established in India by law; and

(ii) experience gained after acquiring above qualification in the manufacture or testing of drugs or enforcement of the provisions of the act for a minimum period of five years, and

(c) have adequate knowledge of Marathi so as to be able to speak, read write Marathi with facility:

Provided that, preference may be given to candidates having a post graduate degree in any one of the subjects mentioned in sub-clause (b)(i) of clause (B) of this rule, or degree in law or research experience in the synthesis and testing of drugs or practical experience in the manufacture of drugs or both:

Provided further that, the age limit may be relaxed in the case of candidates who possess exceptional qualification or experience or both. "

6] The MPSC has published Rules of Procedure 2005. Rule 7 relates to mode of recruitment, which provides that Commission (MPSC), on receipt of requisition from the Government in respect of posts to be filled-in by nomination, shall adopt any of the following methods for recruitment viz. (i) competitive examination (ii) direct recruitment and (iii) competitive examination may also be held limited to the departmental candidates only. So far as direct recruitment is concerned, sub-rule (ii) of Rule 7 provides that it shall consists of any one of the

followings:-

- (i) By interviews only when the number of eligible applicants is within the proportion prescribed under the provision of Rule 9(i)(ii), First by shortlisting candidates by applying criteria and thereafter by interview of shortlisted candidates and
- (iii) by holding screening test of eligible candidates for shortlisting candidates based on their merit of screening test and interview of such shortlisted candidates.

Rule 9 provides that in case of direct recruitment, proportion to be maintained for short listing eligible candidates for interview and it prescribes that if posts advertised are 11 or more, the proportion of candidates to be called for interview shall be three times the number of posts to be filled-in. By virtue of amendment enforced on 17.11.2011, clause (1) of Rule 9 of the Rules has been substituted with following clause:-

“ Number of candidate to be shortlisted for interview shall be three times the number of vacancies in the respective cadres. However, for the post having pay band (iv) and above, as per the 6th pay commission, the Commission may decide from time to time the number of candidates to be called for interview.”

Sub-clause (iii) of Rule 9 provides that in case of response exceeding the proportion laid down in rule 9(i), the Commission may apply criteria for shortlisting of candidates. The criteria may pertain to preferential academic qualification or preferential experience as prescribed in the Notification issued by the Commission in this Regard. If however, no such criteria is prescribed in the Notification, the Commission may, depending upon the response have to adopt any other suitable criteria for shortlisting the candidates for interview. Rule 9(iii) provides, if the response to the advertisement is disproportionately large and where the application of such a criteria may not enable the Commission to shortlist candidates for interview, the Commission may decide to hold screening test, based on merit of the performance in such test, the candidates will be shortlisted, the proportion being the same as mentioned in Rule 9(i) above.

7] The MPSC, noticing that the response to the advertisement issued for filling vacancies of Assistant Commissioner (Drugs) was disproportionately large, decided to hold a screening test for shortlisting the candidates on the basis of performance in the screening test. In all 33 candidates were called for interview. One more candidate was added at a later stage in view of the

direction. Thus, there were 34 candidates interviewed for 12 posts. There are several objections raised by the unsuccessful candidates in the original application presented to MAT. The defects those were pointed in the process of selection by the original applicants were thus:-

(i) MPSC did not verify the eligibility of the candidates before allowing them to participate in the screening test. The candidates who were shortlisted did not fulfill the eligibility criteria.

(ii) Documents were verified only before conducting of interview. It is claimed that out of 33 candidates, six candidates were found ineligible and only 29 candidates were interviewed for 12 posts. According to the petitioners, 36 candidates ought to have been called for interview and should have been short listed.

(iii) It is contended that MPSC declared initially that the marks obtained at the written test would be counted, which was contrary to the procedure, whereas later-on, the Commission decided not to count such marks. Some of the candidates did not fulfill eligibility requirements. The candidates who possessed the experience in testing laboratories did not have the

experience in manufacturing of products as required under the Rules.

(iv) Candidate selected from amongst female SC category is not eligible to be appointed as against female open category and as such, the selection process is vitiated on account of the defects.

In nutshell, it is the contention of the original applicants that MPSC has violated its own rules and procedure in respect of screening test and the proportion for number of candidates to be called for interview. The provisions of the Government Resolution dated 16.3.1999 regarding horizontal reservation have been grossly violated while preparing select list. The list is also objected on the ground that the selected candidates did not possess requisite experience mandated under the Rules as well as under the Advertisement issued by MPSC.

8] So far as fulfilling of criteria of experience is concerned, it was the contention of the original applicants that the candidate shall have experience gained after acquiring qualifications, in the manufacturing or testing of drugs or enforcement of the provisions of the Act for a minimum period of five years. It is

contended that the term '*manufacture*' is defined in section 3(f) of the Drugs & Cosmetics Act, 1940 as below:-

" (f) "manufacture" in relation to any drugs (or cosmetic) includes any process or part of a process for making, altering, ornamenting, finishing, packing, labeling, breaking up or otherwise treating or adopting any drug or cosmetic with a view to its sale or distribution but does not include the compounding or dispensing of any drug or the packing of any drop or cosmetic in the ordinary course of retail business and to manufacture shall be construed accordingly" (emphasis added). "

9] It is contended that the experience in respect of manufacturing of drugs shall be within meaning of definition as provided under section 3(f) of the Drugs & Cosmetics Act, 1940 and the experience in testing of the drugs also shall have a nexus with the manufacturing process. The testing of the drugs is for the purpose of manufacturing and merely the work experience in the research laboratories where the process of manufacturing is not carried-out would not be relevant. It is contended that some of the selected candidates did not have

experience in manufacturing and testing of the drugs and as such were ineligible to participate in the process of selection. It is contended that, the provision is made to ensure that the testing of manufactured drugs is done by an unit, not part of the manufacturing unit to ensure independence of testing unit so that the said unit can ensure quality, purity and strength of the manufactured products.

10 It is contended that the job of the Assistant Commissioner (Drugs) includes enforcement of provisions of the Drugs and Cosmetics Act and as such, a proper interpretation must be put to the provisions, providing for qualification requirement which shall have relevance to the functions required to be performed by the Assistant Commissioner (Drugs). It is contended that the experience gained by some of the candidates in Research & Development Laboratories cannot be treated as relevant experience. According to the original applicants, no product manufactured for examination, test or analysis in an establishment, having license in Form 29 can be sold or distributed except at the place specified in the license only. It is contended that license in Form No.29 is issued under Rule 89 of the Drugs & Cosmetics Rules. The experience gained by some of the selected candidates at laboratories cannot be considered

because their experience relates to clinical tests and the license to such Laboratories did not permit manufacturing of drugs. It is contended that the scheme of the Drugs and Cosmetics Act 1960 and the Drugs & Cosmetics Rules, 1945 deal with manufacturing of two types: (a) manufacturing for sale and distribution and (b) manufacturing in small quantity for examination, test or analysis. The relevant experience is the experience of manufacture for sale or testing of drugs approved for general use.

11 The Tribunal, while dealing with the issue has completely lost sight of proviso to rule 4(B)(b)(ii) which reads thus:-

“ experience gained after acquiring above qualification in the manufacture or testing of drugs or enforcement of the of the provisions of the Act for a minimum period of five years, and . .”

Provided that preference may be given to the candidates having post graduate degree in any one of the subjects mentioned in sub-clause (b)(i) of clause B of these Rules or degree in law or research experience in the synthesis and testing of drugs or practical experience in the manufacture of drugs or both. The original applicants have linked the research experience with manufacturing of drugs.

The whole argument is founded on misinterpretation of the provisions of Rule 4. It is to be noted that sub-rule (ii) or Rule 4(B)(b) mandates experience gained after acquiring qualification in the manufacturing or testing of drugs or enforcement of the provisions of the Act for a minimum period of five years. However, proviso mandates that a candidate having research experience in the synthesis and testing of drugs or practical experience in the manufacture of drugs deserve to be given preference. To deny an opportunity to the candidate who does possess a research experience in synthesis and testing of drugs on the ground that such research experience in synthesis and testing of drugs cannot be linked with manufacturing, would be perverse interpretation. When a candidate having research experience needs to be preferred in view of proviso, he cannot be denied opportunity by misinterpreting sub-rule (ii) of Rule 4(B)(b) in isolation. Apart from this, it must be understood that the research work carried out in well-reputed laboratories is for the purpose of manufacturing drugs. It also must be noticed that in order to assess the qualification requirement of the candidate and more specifically as regards the experience in research laboratories, a committee of four experts headed by the Joint Commissioner (Vigilance) was constituted. The committee

verified the certificates of the candidates and submitted its report. Committee opined that one of the selected candidates Smt. Pramila T. Shinde was working with M/s Cipla Limited as well as M/s Vijay Medical Stores. She tried to mislead MPSC by suppressing the fact and as such, the committee recommended to take appropriate action against the candidate. The said candidate Smt. Pramila Shinde was disqualified on account of production of fake certificate during interview. The experts' committee has scrutinized the certificates and considered the aspect of experience. There is no reason for this Court to take different view since the expert's committee has considered the issue of qualification and since it is noticed that there does not appear to be any deviation from the prescription of rules, there is no reason for the Court to take a different view and cause interference in the matter. The finding recorded by the Tribunal in regard to experience gained by the candidates in research laboratories being not within contemplation of the Rules, is devoid of merit and the said finding does not deserve to be upheld.

12 The MAT has recorded the finding that the MPSC has not adhered to procedure prescribed under the Regulations. The selection process was objected on the ground that the MPSC is

not consistent in its stand as to whether the marks obtained at the screening test shall be computed while making final list. It is contended that under the Regulations, marks obtained at the screening test are not liable to be considered for the purpose of preparation of final list. However, contrary to such prescription, the MPSC took decision on 12.6.2012 that the final merit list of successful candidates would be prepared on the basis of combined marks in the objective test and marks in interview. This, according to the original applicants is in violation of Rule 9(iv) of the MPSC Rules of Procedure 2005.

13 On-line screening test was declared on 12.9.2012 by MPSC and it was held on 4.11.2012. The result of the screening test was declared on 28.3.2013 and 33 candidates were short-listed. Candidates were interviewed during 17.6.2013 to 28.6.2013. MPSC has clarified its stand and has contended that though it was initially decided to compute the marks of screening test, realizing the mistake, corrective steps were taken. It is stated that while finalizing list of selected candidates, the marks obtained by the candidates at the screening test were not at all considered. There is no prejudice caused to anybody and as such, the objection raised by the original applicants does not deserve consideration.

14] Yet another objection is raised in respect of non-observance of the proportion of number of candidates to be called for interview. It is contended that proportion provided under the Rules of Procedure framed by MPSC in respect of calling the candidates for interview in commensurate with the posts advertised, has not been adhered to. It is contended that there were 12 posts advertised, whereas only 28 candidates were interviewed. It is also contended that it was responsibility of MPSC to ensure that only eligible candidates participate in the screening test. There ought to have been a scrutiny of documents to ensure whether candidate is eligible or not before he is permitted to appear for screening test. It is noticed that though there were 34 candidates called for interview, six were found to be ineligible and as such were not allowed to participate in the oral test. It is the contention of MPSC that there were large number of applications received in response to the advertisement. The candidates were directed to tender the applications and furnish information on-line. On scrutiny of the on-line applications, the candidates were permitted to appear for screening test and before conduct of interviews, the documents of the candidates were verified. There was no opportunity to examine the documents before personal appearance of the

candidates. Even otherwise, there is no prejudice caused to either the original applicants or anybody else since no ineligible candidate is permitted to participate in the process of interview. The objection raised by the original applicants that the respondent No.1 did not observe the provisions of the Rules which prescribes calling at least 3 candidates for each post is devoid of substance. It must be noticed that for four open general category posts, 13 candidates were interviewed and for two female open category posts, six candidates were interviewed, likewise for one open sports category post, three candidates were interviewed. Similarly, for one SC category post, three candidates had participated in the process, whereas for ST category, two posts were available and two candidates appeared. For physically handicapped persons category post, three candidates were interviewed, and one candidate participated in the process. It is also worthy to note that no candidate is selected from the sports category and from physically handicapped category. The sports category post was added to open general category, whereas for physically handicapped category, one post from amongst open category is kept vacant. The list of selected candidates show that Smt. P.T. Shinde, Smt. Swapna Kamble were selected against two female open category

posts. Smt. P.T. Shinde was found to be disqualified later-on. For two posts of ST category, only one candidate was recommended. Thus, the MPSC has recommended only ten candidates for 12 posts and did not recommend any candidate for one ST category post and one physically handicapped category post. One post from open category is kept vacant whereas one post from ST category remained to be filled in. Thus it is clear that for filling ten posts, 34 candidates participated in the process of selection. Even assuming that six candidates were found to be ineligible, the number of candidates interviewed is 28 which meets the requirement. MPSC does have discretion to vary the proportion for calling the candidates for interview depending upon the response from the candidates. In the instant matter, there does not appear to be any deviation from the regulations, necessitating quashment of the whole process. The general requirement of calling the candidates for interview by maintaining the proportion has been fulfilled and we do not find any serious infirmity on that count in the process of selection necessitating to cause interference by the Tribunal.

15] The Tribunal has also noticed fault in recommending name of Smt. Pramila Shinde as a open female category candidate. It is recorded that MPSC should have prepared a select list of seven

persons from open category since no candidate from horizontal reservation for sports category was available, the post was returned back to open general category. It is further recorded that since the list of seven candidates did not have two open female category candidates, the name of candidate at Sr. No.6 ought to have been deleted as the candidate at Sr. No.7 was open female category candidate and name of another open female category candidate ought to have been added. The Tribunal has also objected for recommending name of Smt. Sapna Surendra Kamble for the post meant for open female category. According to the Tribunal, she being from reserve category, her name can be considered only against SC female category. It is also recorded in the Judgment that if, for the said post, no suitable open category candidate was available, the post should have been filled in by open general category candidate. It is contended that the selection of open female category candidate belonging to vertical reservation is illegal. Reliance is placed on the Judgment in the matter of **Rajesh Kumar Daria versus Rajasthan Public Service Commission and others** (2007 (8) SCC 785) to conclude that the post earmarked for horizontal reservation i.e. woman open category cannot be filled in by offering it to a candidate belonging to vertical reservation

i.e. SC woman. The view adopted by the Tribunal is erroneous and is based on misreading of the Judgment of the Honourable Supreme Court in Daria's case. So far as the objection to selection of Smt. Pramila T. Shinde is concerned, the same does not deserve consideration since the experts committee has found her ineligible and the said candidate has already withdrawn candidature. So far as the objection for recommending name of Mrs. Sapna Kamble for women open seat is concerned, the issue is no longer *res-integra* and has been dealt with by the division bench of this Court in its Judgment on 30.3.2016 in the matter of **Asha Ramesh Gholap versus The President & Collector, District Selection Committee, Beed and others** being Writ Petition No.3929 of 2015. The Division bench in an identical case has observed in paragraph Nos.25 to 28 of the Judgment as quoted below:-

" 25) The apprehension which was expressed by the learned Counsel appearing for the respondents that if the candidates belonging to reserved class are permitted to compete even for the posts notified for general category, the persons belonging to open category may lose their chances forever

or for a long time to get the employment, is totally untenable and unsustainable. As has been observed by the Hon'ble Apex court in the aforesaid judgments, the whole idea is to see that minimum number of seats as provided for are filled in by vulnerable sections of the Society. However, there can never be any constitutional or legal objection if more members from those weaker sections of the society get selected to the posts on their own merit from the seats meant for the open category.

26) It was sought to be canvassed on behalf of the respondents that the principle which is applicable to vertical (social) reservations which permit the candidates belonging to backward class to compete for unreserved posts and if they are appointed to the non-reserved post on their own merit, their number is not to be counted against the quota reserved for the respective backward class, will not apply to horizontal(special) reservations. It was

further canvassed that for the ten posts notified to be filled in by the candidates belonging to open category in vertical reservation, three posts out of the said ten posts, are reserved to be filled in by women candidates and thus it was the horizontal(special) reservation provided for the women candidates and as such, the said posts were liable to be filled in only by the women candidates belonging to open category.

27) We find the argument advanced as above to be fallacious. Once it is held that general category or open category takes in its sweep all candidates belonging to all categories irrespective of their caste, class or community or tribe, it is irrelevant whether the reservation provided is vertical or horizontal. There cannot be two interpretations of the words 'open category'; one applicable for vertical reservation and other for horizontal

reservation. Reservation prescribed may be 'vertical' or 'horizontal' if it relates to open category, the candidate belonging to backward class cannot be precluded from competing for the said posts on their own merit with rest of the candidates.

28) We have noticed that the law laid down by the Hon'ble Apex court in the case of **Rajeshkumar Daria and Anil Kumar Gupta** (cited supra) is being mis-interpreted by the Administrative authorities. In Rajesh Kumar Daria's case, the Hon'ble Apex court has discussed about horizontal (special) reservation provided for women within the social reservation for scheduled caste and by giving an illustration, a conclusion is recorded that the women selected on merits within the vertical reservation quota will be counted against horizontal reservation for women. In Anil Kumar Gupta's case, the Hon'ble Apex court has ruled that the requisite number of special reservation candidates shall have to be taken and

adjusted/accommodated against their
respective social reservation categories by
deleting the corresponding number of
candidates therefrom. "

16] The view adopted by the tribunal in respect of offering seat prescribed for horizontal reservation to a candidate claiming vertical reservation is erroneous and there is no error committed by MPSC in recommending the name of Mrs. Sapna Kamble who has filled in her application as candidate belonging to SC category vertical reservation.

17] The MAT has also directed quashment of clause No.4.2.8 of the general guidelines issued by MPSC and clause 2(c), 1 and 2 of the Government resolution No.82/2001 dated 25.5.2001 being unconstitutional. It must be noticed that there was no prayer made by any of the petitioners for granting such declaration. There is absolutely no discussion in the Judgment in support of declaration as unconstitutional the aforesaid clauses of the Government resolution and the guidelines issued by MPSC. It was unnecessary for the Tribunal to consider the aspect which was not subjected to challenge before it.

18] For the reasons recorded above, the Judgment and order passed by the MAT on 1.4.2014 in O.A.No.820/2013 deserves to be quashed and set aside and the same is accordingly quashed and set aside. The necessary consequence of quashment of order passed by the MAT shall follow. The petitioners and the selected candidates are eligible for appointment to the post of Assistant Commissioner (Drugs) and the MPSC shall forward their names to the State and the State shall issue consequential orders. It is informed that as a result of quashment of selection process by MAT, fresh process was pursued. Fresh process undertaken and concluded by MPSC is also a matter of challenge in certain original applications pending before the MAT. The Tribunal may take up those original applications for consideration and may pass appropriate orders in consonance with the orders passed in the instant writ petition.

19] Rule is accordingly made absolute.

20] In the facts and circumstances, there shall be no order as to costs.

(A.S. GADKARI, J)

(R.M. BORDE, J)

vbd