

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7624 OF 2017

Dipika Kashinath Khairanar,
Age: 29 years, Occupation: Service,
Residing at Post : Chaundhane,
Taluka: Satana,
Dist. Nashik 423301.

.....Petitioner

Versus

1 The State of Maharashtra
Through Secretary,
General Administration Department,
having its office at Mantralaya,
Mumbai- 400 032.

2 The Secretary,
Maharashtra Public Service
Commission, [M.S.] Mumbai,
Having office at Cooperage,
Telephone Nigam Building,
Maharshi Karve Road,
Mumbai 400 021.

3 Kiran Vishwanath Rapatwar
C/o. Sachin Ramgirwar,
Near Income Tax Colony,
Janardhan Nagar, Nanded,
Dist. Nanded 431605.

4 Vijaya Hanumant Honkalashkar
Plot No.4, Adarsha Colony,
Himanalaya Building,
Tamajainnagar,
Satara - 415002.

5 Snehal Subhasrao Patil
At Post: Prayag Chikhali,
Dist: Kolhapur-416229.

6 Suchitra Devrao Jadhav
Shingewadi, Shinde Niwas,
Kave Road, Near Hand Water
Pump, Solapur-413252.

7 Yogeshwari Ramesh Nande,
At-Post Palsap,
Dist-Osmanabad 413509.

8 Sujata Genbhau Bhaterao
C/o. Dhage Kisorkumar Murlidhar
Ghati Road, Chakuli Niwas,
Jai Bheem Nagar,
Near Dr. Babasaheb Ambedkar
Statue, Aurangabad-431001.

9 Sarita Bajirao More
At-Sarawade, Kudale Galli
Tukaram Niwas,
Back Side Vitthalai Temple,
Dist: Kolhapur-416212.

10 Sulakshana Shaliwahar Pawar
Barbole Plot, Shivshakati Ground
Barbole Plot, Solapur-413411.

11 Ashish Amgounda Patil
At-Post Bambavade,
Patil Galli, Dist: Sangali-415410.

12 Jaymala Ramrao Patange
C/o. Vijay N. Bhosale,
N.H.S.Vijay Nagar Mauli Niwas,
Nanded, Dist. Nanded 431602.

13 Nilofer Balasaheb Patel
C/o. B.P.Shaikh,
Ambajohai Road, Taj Villa
Khorli Galli, Shivaji Chowk,

Dist: Latur, 413512

14 Shital Subhashrao Shinde
C/o. Shinde Subhash Tukaram
Ravikunj, Behind Rahul Hotel
Aayodhya Nagar, Dist. Beed,
Pin Code - 431517.

.....Respondents

Mr. Rajiv B. Chavan, Senior Advocate with Ms. Priyanka B. Chavan and Ms. Bhavana Knichi i/by Mr. Ashish S. Gaikwad, Advocates for Petitioner.

Mr. N.C.Walimbe, AGP for Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : July 7, 2017.

JUDGMENT : [Per Shri Sandeep K. Shinde, J.]

1 The Maharashtra Public Service Commission (In short '**MPSC**')- Respondent No.2 undertook process to select candidates for the post of Lecturer-District Institute of Education and Training Group-B. The Petitioner applied for the said post from Open Woman Category/General Female Category though she belongs to OBC (Other Backward Class). The Petitioner secured 106 marks in written examination and 31 marks in interview. Her score of 137 marks was more than the marks secured by Respondent Nos.3 to 14 herein. The

MPSC-Respondent No.2, however, declined merit and selected Respondent Nos.3 to 14. Aggrieved by such a selection process, the Petitioner has challenged the selection process and result thereof to the extent of candidates selected from the Open Woman Category for the subject post vide Original Application No.82 of 2017.

2 That pending the Original Application, she applied for interim relief to restrain Respondent Nos.1 and 2 from taking any further steps in making appointments to the aforesaid post from Open Woman Category. In other words, she would seek relief that no appointment orders be issued in favour of Respondent Nos.3 to 14.

3 The Original Application No.82 of 2017 was filed on 19.1.2017; the Miscellaneous Application No.200 of 2017 was filed on 9.5.2017 for interim relief. It appears the Respondent Nos.3 to 14 have filed their affidavit-in-reply on 12.6.2017 in the Original Application No.82 of 2017 and refuted the claim of the Petitioner/Original Applicant. It appears from the records that on 18.6.2017, the Petitioner had filed affidavit-in-rejoinder to the reply filed by the Respondent Nos.3 to 14.

4 On 22.6.2017, the Original Application was admitted after hearing both the sides. The Tribunal in its order clarified that ***“Appointments if any made shall be subject to outcome of this O.A.”***

 That Petitioner's Miscellaneous Application was also heard on the same day wherein the following order was passed:

“In view of the order passed in O.A., nothing survives in M.A. No.200 of 2017.” Hence, Misc. Application is disposed of accordingly.”

5 The Petitioner/Original Applicant being aggrieved by the orders dated 22.6.2017 has preferred this Writ Petition and in substance, has challenged the impugned result dated 31.12.2016 to the extent of selection of Respondent Nos.3 to 14 from the Open Woman Category for the subject post. In prayer clause (b), the Petitioner seeks order to grant stay to the extent of appointment and joining of Respondent Nos.3 to 14 to the subject post and further seeks directions to the learned Tribunal to dispose of the Original Application within a period of four weeks.

6 Heard the learned counsel for the Petitioner and the learned AGP for the State.

7 We have perused the pleadings and the orders passed in Original Application and in the Miscellaneous Application. In our view, the order passed by the Tribunal making appointments of the Respondent Nos.3 to 14 subject to outcome of the Original Application, sufficiently protects interest of the Petitioner. The Substantive prayer made in prayer clause (a) has not been worked out or addressed to the Tribunal and since the Tribunal is seized of the matter and since the Tribunal has protected interest of the Petitioner by passing the order as aforesaid, in our view, no case is made out to interfere with the orders dated 22.6.2017 passed by the Tribunal. It is, however, clarified that we have not decided the issue in the Petition on merits since the Tribunal is seized of the matter. Looking into the facts of the case, the learned MAT may consider the request of the Petitioner for expeditious

hearing. With aforesaid direction, the Petition is disposed of with no order as to costs.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)