

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

WRIT PETITION NO. 11781 OF 2015

Sunilkumar S/o Shahuraj Shinde & Anr. ... Petitioners

VERSUS

The State of Maharashtra & Ors. ... Respondents

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Mr Sanjay A. Wakure, Advocate for the petitioners

Mr A. S. Shinde, AGP for respondent/State

Mrs Doke, Advocate for respondent No. 3

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 21ST MARCH, 2018.

ORDER:

1. The petitioner had filed Original Application before the Tribunal challenging the selection process. The Original Application filed by the petitioner is dismissed. Aggrieved thereby, the present petition.

2. Mr Wakure, the learned counsel for the petitioner submits that the selection process was faulty. The allotment of marks was arbitrary. Even the appointments have not been made properly. One Sandeep Golait and Shukracharya Dudhal belong to OBC, still they ought to have been considered from the Open General Category as they had received more marks. If both of them would have been

considered from the Open (General Category), then the petitioner no. 2 could have been selected from OBC category. The ld. counsel submits that, Smt. Babita Giri though from VJ category, is considered from Open (Female Category). She had secured 50 marks. She could not have been considered from the Horizontal reservation. The learned counsel submits that, the marks allotted in the screening test do not stand to any reason and same are without any guidelines. The learned counsel for the petitioner relies on the judgment of the Division Bench of this Court in the case of Kisan Sukhdeo Lokhande v Collector, Akola reported in 2004 (3) Mh.L.J. 742. The learned counsel submits that, the Tribunal has failed to consider in its proper perspective the concept of horizontal reservation vis-a-vis the vertical reservation.

3. The learned counsel for the respondents support the order of the tribunal.

4. It has been stated on affidavit by the MPSC that, Sandeep Golait and Shukracharya Dudhal though had secured more marks in written test, in the screening test they performed on the lower side and they could qualify only from OBC category. As such, could not have been considered from Open category.

5. As far as the aspect of the selection of Smt. Babita Giri is concerned, though she belongs to VJ category, she has secured more marks and is considered from Open competition category and from the seat meant for female. In view of the fact that, there is no compartmentalized reservation provided for women, only one post was reserved for women. As per 30% posts, there should be at least two posts for women. As there was no compartmentalized reservation, the said Smt. Babita Giri is considered from female category. The Tribunal has considered the said aspect in its correct perspective.

6. It is not a case that, unbridled powers were given to the members of the Committee. The guidelines itself are being provided in the advertisement and the marks have been given. This court would not sit as an appellate authority over the marks given by the members of the Committee for the written examination and the screening test.

7. Considering the above, no case for interference is made out. The writ petition is dismissed. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE