

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT  
AND  
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.6734 of 2018**

**ORDER:** (Oral)

(Per Suresh Kumar Kait, J)

Vide the present petition, petitioner has challenged order dated 07.11.2017 passed in O.A.No.2957 of 2016, whereby the application filed by the respondents under Section 19 of the Administrative Tribunals Act, 1985, has been allowed.

2. Learned Advocate General for the State of Andhra Pradesh appearing for the petitioner submits that pursuant to order dated 22.06.2007 passed in O.A.No.161 of 2007 and batch, the petitioner issued revised result of the posts in question on 22.07.2016. However, the learned Tribunal in O.A.No.3679 of 2016, has not taken into view that earlier Rule 7 of the APPSC Rules of Procedure has not been complied with, which was challenged in O.A.No.161 of 2007 and thereafter pursuant to the directions dated 22.06.2007, revised selection list was issued on 22.07.2018 by applying Rule 7 and the learned Tribunal also observed in its order dated 22.06.2007 that Rule 7 had not been complied with. Learned Advocate General further submits that there is no illegality or perversity in the selection list dated 22.07.2016 and thus the present writ petition deserved to be allowed.

3. In the order dated 22.06.2007 passed in O.A.No.161 of 2007 and batch, the learned Tribunal observed as under:

“Under the facts and circumstances of the case, it is declared that the action of the Commission treating the two selected candidates with 659 and 643 marks as candidates selected under BC ‘D’ (General) quota for the post of MPDO is contrary to law. The respondents are liable to treat the two selected candidate for the post of MPDO as open competition candidates and fill the two carry forward vacancies with BC ‘D’ (General) candidates. Further as the respondents did not hold the enquiry as contemplated under Rule 7 of Rules of Procedure, the final selection list sent to the Government is not just and proper. In view of the peculiar facts and circumstances of the case, as the selected candidates are not parties to the case, the selection list sent to the Government does not call for any interference. However, the respondents are hereby directed to fill up the unfilled vacancies from out of the leftover merit list, in the interest of justice. The respondents shall complete the process within one month from today. Accordingly, the OAs are disposed of and VMAs are allowed. No costs.”

4. Aggrieved by the aforesaid order, petitioner filed W.P.No.17401 of 2017, which was dismissed by judgment dated 10.09.2007 and further filed C.A.No.4380 of 2009 and the Hon’ble Supreme Court, by order dated 14.01.2016, dismissed the said C.A. Thus, the order of the Tribunal passed in O.A.No.161 of 2007 and batch dated 22.06.2007 was confirmed.

5. It is pertinent to note, in the order dated 22.06.2007, it is clearly mentioned that in view of the peculiar facts and circumstances of the case, since the selected candidates were not parties in the aforesaid O.A., selection list sent to the Government does not call for any interference. Directions were issued to the petitioner to fill up the unfilled vacancies from out of leftover merit list. Therefore, by the aforesaid order, it is clearly stated that the selection list which is sent to the Government does

not call for any interference and direction was only to fill up the unfilled vacancies from out of the leftover merit list.

6. It is not in dispute that the selection pertains to the year 2003 and the revised selection list pursuant to the order dated 22.06.2007 has been issued on 22.07.2016, i.e., after 13 years of the selection. Undisputedly, in order dated 22.06.2007, liberty was not given to the petitioner to tinker with the selection list already sent to the Government; therefore, there was no question to comply with Rule 7 in the earlier selection list. Rule 7 certainly would be applicable in the leftover merit list without disturbing the selection list already sent to the Government.

7. It is pertinent to mention here that, before the Tribunal in O.A.No.161 of 2007 and batch, the standing counsel appearing on behalf of the Government specifically stated that since the selection list has already been sent by the Commission to the Government and as the applicants have not impleaded the selected candidates, the question of setting aside the selection list sent by the Commission would not arise. Despite, petitioner has disturbed the selection list by issuing proceedings dated 22.07.2016.

8. Since the order dated 22.06.2007 passed by the Tribunal has been tested upto the Hon'ble Supreme Court, there was no question to go beyond the directions issued by the Tribunal. If petitioner had any doubt about the orders passed by the Tribunal, it could have approached the Tribunal for clarification, which the petitioner failed to do.

9. In view of the above, we find no illegality or perversity in the order dated 07.11.2017 passed by the learned Tribunal in O.A.No.2957 of 2016.

10. Finding no merit in the present petition, the same is accordingly dismissed with no order as to costs.

Miscellaneous petitions, if any pending in the writ petition, stand closed.

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**SURESH KUMAR KAIT, J**

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**ABHINAND KUMAR SHAVILI, J**

February 28, 2018  
MRR

