

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

WRIT PETITION NO. 11988 OF 2019

Shilpa Sahebrao Kadam and Another

.. Petitioners

Versus

The State of Maharashtra and Another

.. Respondents

Mr. P. R. Katneshwarkar, Advocate for Petitioners.

Mr. V. M. Kagne, AGP for Respondents-State.

Mr. A. S. Deshmukh and Mr. S. D. Munde, Advocate for Caveator.

**CORAM : S. V. GANGAPURWALA &
 ANIL S. KILOR, JJ.**

DATED : 01st OCTOBER, 2019.

PER COURT:-

1. Learned AGP and Mr. Deshmukh, learned Counsel for the caveator raised a preliminary objection that the petitioners have alternate remedy before the Maharashtra Administrative Tribunal.

2. Mr. Katneshwarkar, learned Counsel submits that there are conflicting views between the different Benches of the Tribunal. This Court had initially passed an interim order dated 25.04.2018 in Writ Petition No. 4159 of 2018 by virtue of which the respondent No. 2 prepared selection list ousting the petitioners from the select list. Final judgment was delivered on 08.08.2019 in Writ Petition No. 6578 of 2018. The petitioners are relying on the said judgment for claiming the relief.

3. The Division Bench is not available of the Maharashtra Administrative

Tribunal at Aurangabad. The opinion has been given by the Advocate General. The respondent No. 2 is acting upon the opinion of the learned Advocate General that Tribunal may not be in a position to decide against the opinion of the learned Advocate General.

4. We cannot comprehend an argument of the petitioners that the Maharashtra Administrative Tribunal cannot decide against the opinion of the learned Advocate General. The Maharashtra Administrative Tribunal performs the judicial act. It has to decide the matter in accordance with law and the judicial precedents by which it is bound. Similar matters involving the same issue are already referred by this Court to the Maharashtra Administrative Tribunal, Aurangabad under order dated 19.09.2019 in Writ Petition No. 11496 of 2019.

5. The Tribunal is constituted to deal with matters of such nature. The Tribunal would certainly consider the judgment delivered by this Court and that would be cited before it.

6. In the light of the above, we dispose of the writ petition with liberty to the petitioners to approach the Maharashtra Administrative Tribunal. All contentions are kept open. No costs.

(ANIL S. KILOR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.