

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
902 WRIT PETITION NO.2068 OF 2019**

JIVAN DIGAMBAR DOMLE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. R. P. Bhumkar, Advocate for the Petitioner.

Mrs. A. V. Gondhalekar, AGP for Respondents-State.

...

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

DATED : 13th FEBRUARY, 2019.

PER COURT:-

1. The petitioner had filed Original Application before the Maharashtra Administrative Tribunal seeking directions to consider the petitioner for appointment from project affected persons category. The learned counsel submits that the petitioner pursuant to the advertisement dated 05.10.2008 participated in the selection process. The petitioner possesses project affected persons certificate. The petitioner secured 60.20 marks out of 200. According to the learned counsel, the cut off marks were reduced to 35%. According to the learned counsel, the posts for project affected persons category are vacant. The petitioner can be considered for the appointment on the vacant post by reducing the cut off marks. The Tribunal failed to consider the case put forth by the petitioner in its correct perspective.

2. The learned A.G.P. submits that in fact the cut off marks were fixed at 45%, but subsequently it was decided to reduce it to 35%. The petitioner even has not secured 35%.

3. We have considered the submissions and we have also gone through the order of the Tribunal.

4. It appears that, initially the list of selected candidates was with minimum 45% cut off marks, however, upon ex-post facto approval of the Hon'ble Chief Minister the same was reduced to 35%. The petitioner also does not get the advantage of the same. The petitioner has only secured 30%. We cannot direct the respondents to compromise the merit to such an extent that even incompetent person would get selected. The Tribunal has considered the said aspects. Only because the posts are vacant, we cannot direct the respondents to further lower the cut off marks even less than 35%. We cannot accept the arguments of the petitioner that the parity be given to the project affected persons with that of physically disabled persons.

5. In light of the above, Tribunal has not committed any error. Writ Petition is disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE