

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

WRIT PETITION NO. 12428 OF 2021

Vikas Bhagvan Haridas .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 12429 OF 2021

Bharat Babarao Chapulkar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 12430 OF 2021

Vikas Baliram Rajgirwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 12431 OF 2021

Arjun Taterao Gaikwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

WITH

WRIT PETITION NO. 12432 OF 2021

Ajay Raosaheb Waghmare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12433 OF 2021**

Madhav Parasram Nagargoje .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12434 OF 2021**

Pradip Nagnath Phulse .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12435 OF 2021**

Ishwar Sambhaji Waghmare .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 12436 OF 2021**

Atul Eknathrao Dongare .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Mr. Anand D. Wange, Advocate for the Petitioners in all matters.
Mr. A. R. Kale, AGP for Respondents/State in all matters.
Mr. A. S. Bajaj, Advocate for Respondent No. 2 in all matters.

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 30th November, 2021.

PER COURT:-

. Mr. Wange, learned counsel for the petitioners submits that the respondents have erroneously considered the percentile marks of the candidates. The same is against the clause in the advertisement. The candidates had filled in the form giving the marks of best of five. The advertisement specifically says that the marks on the basis of best of five would not be considered for the selection.

2. Mr. Bajaj, learned counsel for respondent No. 2 has placed on record the communication to suggest that the best of five marks would not be considered, but aggregate marks in all subjects will only be considered.

In the light of that, the grievance of the petitioners to that extent does not survive.

3. The learned counsel for the petitioners further submits that the respondents have not filled in the entire posts. According to him, if the SC person secures more marks than the General category, he has to be considered from General category. The same should apply for further selection also.

4. Mr. Bajaj, learned counsel submits that the post from the open

(General category) would be filled in on the basis of merit only irrespective of the reservation. The first candidate in SC, ST and OBC category would be having less marks than the last candidate in the General category in the select list. However, if appointments are given to all the persons and thereafter if the vacancy arises, then again there would not be shuffling of the post.

5. The learned counsel submits that after the letters are given for the scrutiny of documents of the persons according to the number of seats available and thereafter vacancy arises due to disqualification of some of the candidates, then wait list is operated on merit basis. The same shall be a fair proposition. The wait list certainly will have to be operated on merit basis only.

6. In view of the above, writ petitions stand disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.