

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7626 OF 2015

Maharashtra Public Service	}	
Commission	}	Petitioner
Versus		
Dr. Kailas Ramrao Shelke	}	
and Ors.	}	Respondents

**WITH
WRIT PETITION NO. 7631 OF 2015**

Maharashtra Public Service	}	
Commission	}	Petitioner
Versus		
Dr. Ramesh Vithalrao Bansod	}	
and Anr.	}	Respondents

**WITH
WRIT PETITION NO. 7632 OF 2015**

Maharashtra Public Service	}	
Commission	}	Petitioner
Versus		
Dr. Dhawal Shrihari Salve	}	
and Anr.	}	Respondents

Mr. Sarthak Diwan i/b. Mr. A. M. Kulkarni for the petitioners.

Mr. R. G. Panchal with Mr. A. R. Kori, Mr. Anil Jaiswar and Mr. Suresh Ghamare for respondent no. 1.

Mr. B. V. Samant-AGP for respondent no. 2 (State).

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- OCTOBER 27, 2021

PC :-

1. These writ petitions are at the instance of the Maharashtra Public Service Commission (hereafter "the Commission" for short). They are directed against a common order dated 11th August 2014 passed by the Maharashtra Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal" for short) disposing of Original Application Nos. 393, 394 and 395 of 2013.

2. The original applicants before the Tribunal belong to Scheduled Caste category. In response to an advertisement dated 20th January 2012 issued by the Commission for filling up 3 (three) posts of District Health Officers in Maharashtra Medical and Health Services (Group-A) reserved for the Scheduled Caste category, the original applicants had offered their candidature. Upon verification of the applications received for the said three posts, 16 candidates were *prima facie* found to be eligible; however, the Commission, thereafter, applied the shortlisting criteria, which led to call letters being issued to 9 (nine) candidates belonging to the Scheduled Caste category. The original applicants did not figure within the 9 (nine) shortlisted candidates. Aggrieved thereby, they approached the Tribunal for a direction on the Commission to issue call letters to them for participating in the interview.

3. The original applications were considered by the Vice Chairman of the Tribunal. By an order dated 14th May 2013, the Tribunal passed an interim order directing the Commission to call the original applicants for interview for the post of

District Health Officers reserved for Scheduled Caste category, subject to final outcome of the original applications.

4. The Tribunal, while making the aforesaid order, seems to have been impressed by the submission made on behalf of the original applicants that the 9 (nine) shortlisted candidates included 8 (eight) candidates who had already been selected for the post of District Health Officers pursuant to advertisement nos. 155/2011 and 186/2012. The Tribunal was of the view that calling such candidates for interview would only block the chances of other candidates who had not been so called.

5. In compliance with the order dated 14th May 2013, the original applicants were interviewed by the Commission; however, the results were not declared. When the original applications were listed for consideration on 11th August 2014, the Division Bench of the Tribunal disposed of the original applications, as noted above, by passing the following order: -

"4. The Applicants have obtained interim order from this Tribunal by order dated 14.5.2013 and M.P.S.C. was directed to call the Applicants for interview. Now the interviews are over, but the result has not been declared as this Original Applications have not yet been decided.

5. We find that the Applicants were directed to be allowed to appear for interview, as no useful purpose would have been served by calling candidates who were already selected to the post of District Health Officer from S.C. category in the earlier round of selection. As the Applicants were prima facie eligible to be considered for selection, they were directed to be interviewed. Now the selection process is over and only the result is to be declared.

6. In view of the above facts and circumstances, we direct the Respondent (MPSC) to declare the result of within a period of two weeks from the date of this order. The Original Applications stand disposed of accordingly with no order as to costs."

6. We are of the clear opinion that the Tribunal fell in error in disposing of the original applications by such cryptic order. No material was placed before the Tribunal to indicate that the 8 (eight) candidates who had earlier been selected in pursuance of advertisement nos. 155/2011 and 186/2012 have already been appointed. In the absence of any material to show that appointment had been offered, the said 8 (eight) candidates did have a right to compete for selection. The Tribunal was, therefore, entirely incorrect in remarking that no useful purpose would have been served by calling such selected 8 (eight) candidates.

7. That apart, the main question which the Tribunal was tasked to decide on the original applications was whether the original applicants were deprived of participating in the interview, despite being *prima facie* eligible, in a manner unknown to law. Without pronouncing on that question, the Tribunal could not have directed the Commission to declare the results of all the candidates who had participated in the interview.

8. The impugned order of the Tribunal is clearly indefensible and, accordingly, stands set aside. We, however, order a remand, with the result that the Original Application Nos. 393, 394 and 395 of 2013 on the file of the Tribunal shall stand revived. The Tribunal is requested to decide the original

applications with utmost promptitude having regard to the fact that the interviews took place almost 8 (eight) years back and also bearing in mind the fact that reply affidavit has already been filed by the Commission before the Tribunal.

9. We permit the Commission as well as the State to file an additional affidavit to indicate therein the fate of those 8 (eight) candidates who were selected pursuant to advertisement nos. 155/2011 and 186/2012. Upon taking into consideration their fate, the Tribunal may take an appropriate decision on the original applications.

10. The writ petitions stand allowed to the extent as aforesaid. No costs.

SALUNKE
J V

Digitally signed
by SALUNKE J V
Date: 2021.10.28
18:49:43 +0530

(M. S. KARNIK, J.)

(CHIEF JUSTICE)