

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

**WRIT PETITION NO.1218 OF 2013
WITH
CIVIL APPLICATION NO.4621 OF 2015
WITH
CIVIL APPLICATION NO.7369 OF 2021**

Amol S/o. Kakasaheb Lekurwale
Age: 33 Years, Occu.: Service,
R/o.: At Post Jawala, Tq.: Jamkhed,
Dist.: Ahmednagar **.. Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai – 400 032
2. Deputy Secretary,
The Maharashtra Public
Service Commission,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01
3. Suresh S/o. Sahebrao Deshmukh,
Age: Major, Occu.: Drug Inspector,
R/o. Through The Commissioner,
Food & Drug Administration,
FDA Head Quarters,
Bandra-Kurla Complex, Bandra East,
Mumbai – 57
4. Bhaghyashri D/o. Dinkar Kadam
As above
5. Anil S/o. Mahadevrao Manikrao
As above
6. Abasaheb S/o. Anandrao Raskar
As above
7. Mahesh S/o. Balajirao Kautikwar

As above

8. Namdev S/o. Sitaramji Bhalerao
As above
9. Javed Husain Shaikh
As above
10. Madhuri Balkrushna Sali
As above (*Deleted*)
11. Anjali Mangalappa Mitkar
As above
12. Shashikant S/o. Pandurang Yadav
As above
13. Shrutika D/o. Kamalsingh Jadhav
As above
14. Swati D/o. Sudhakar Bharde
As above
15. Monika D/o. Arun Mohod
As above
16. Sujit S/o. Rangnath Bhadke
As above
17. Vijay S/o. Vitthal Nangre
As above
18. Nitin Pandurang Aher
As above
19. Sachin S/o. Ashok Kamble
As above
20. Manish S/o. Vishwas Gotmare
As above
21. Pramod S/o. Vittharaoji Radke
As above

22. Jeevan S/o. Dattatray Jadhav
As above
23. Suhas S/o. Tanaji Sawant
As above
24. Mahesh S/o. Vinayak Deshpande
As above
25. Ganesh S/o. Ramchandra Rokade
As above
26. Nishigandha D/o. Pandurang Patil
As above
27. Tazi Shehenaz D/o. Abdul Khalil
As above
28. Pravin S/o. Aanurat Mhaske
As above (*Deleted*)
29. Shrikant S/o. Devendra Fule
As above
30. Vivek Dattatray Coudhari
As above
31. Milind Krushnarao Kaleshwarkar
As above
32. Arun S/o. Sakharam Godse
As above
33. Prashant S/o. Rajendra Ramteke
As above
34. Prashantkumar S/o. Bhaskarrao Aswar
As above
35. Niraj S/o. Vitthalrao Lohakare
As above
36. Kishor S/o. Munirajaji Rajne
As above

37. Vikas S/o. Vilasrao Patil,
As above
38. Shital D/o. Vijay Gohade
As above
39. Madhav S/o. Jagganath Nimse
As above
40. Manish S/o. Shriram Choudhari
As above
41. Atish S/o. Shiaji Sarkale
As above
42. Savita D/o. Krushnaji Titar
As above
43. Baliram S/o. Damodar Marewad
As above
44. Pravin S/o. Dinkar Harak
As above
45. Dyaneshewar S/o. Mohan Darandale
As above
46. Sunil S/o. Harishchandra Gawali
As above
47. Ramdas S/o. Bhagwan Lonkar
As above (*Deleted*)
48. Gajanan S/o. Pralhad Ghirke
As above
49. Pravin S/o. Haridas Raut
As above
50. Ashok S/o. Tukaram Rathod
As above
51. Sandeep S/o. Narayan Narawane

As above

52. Jayashri D/o. Parappa Soudatti
As above

53. Rupesh S/o. Ashrath Whatkar
As above

54. Chandrakant S/o. Arjun More
As above

55. Hitesh S/o. Babubhai Parmar
As above (*Deleted*)

56. Rajesh S/o. Baburao Bankar
As above

57. Ajay S/o. Mangalprasad Mahule
As above

58. Prachi D/o. Durgasingh Rathod
As above

59. Rakesh S/o. Manoharrao Edlawar
As above

60. Sanjay S/o. Mohansing Rathod
As above

61. Sapna D/o. Surendra Kamble
As above

62. Shubhangi D/o. Sadashiv Bankar
As above

63. Poonam D/o. Raghuvir Pednekar
As above

64. Umesh S/o. Bhaurao Gharote
As above

65. Sachin S/o. Shivdas Bugad
As above

66. Shamal W/o. Deepak Homkar
As above
67. Vivek S/o. Pandurang Khedkar
As above
68. Sanjali D/o. Atmaram Desai
As above (*Deleted*)
69. Bhushan S/o. Potal Pali
As above
70. Nitin S/o. Shankarrao Devre
As above (*Deleted*)
71. Manesh S/o. Mahadev Jagtap
Age: Major, Occu.: Service,
R/o.: Akhrut Co. Hs. Society,
Room No. C203, Block-C, Sector-14,
Sanpada, Navi Mumbai
and through Deputy Secretary, M.P.S.C.
Bank of India Building, 3rd Floor
Mahatma Gandhi Marg, Fort,
Mumbai – 01
72. Satish S/o. Arun Polshettiwar
Age: Major, Occu.: Service,
R/o. MIT College of Pharmacy,
Kothrud, Pune – 411 003
and through Deputy Secretary, M.P.S.C.,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01
73. Varsha D/o. Madhukar Choudhari
Age: Major, Occu.: Service,
R/o. N-32 / N-5/ 2711 New CIDCO,
Swami Vivekanand Nagar, Nashik,
and through Deputy Secretary, M.P.S.C.,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01
74. Manoj S/o. Nandkumar Ayya,

Age: Major, Occu.: Service,
R/o.: Through The Commissioner,
Food & Drug Administration, FDA Head
Quarters, Bandra-Kurla Complex,
Bandra East, Mumbai – 57

75. Ravindra S/o. Mansing Salunke
Age: Major, Occu.: Service,
R/o.: 16, Lokmangal Co. Hous. Society,
Z.P.Colony, Konark Nagar,
Adon Shivar, Nashik
and through Deputy Secretary, M.P.S.C.
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01
76. Satish S/o. Hirasing Chavhan
Age: Major, Occu.: Service,
R/o.: Sarvesh, 27, Bhagyoday Colony,
MIDC Road, Amarawati – 444 606
and through Deputy Secretary, M.P.S.C.,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01
77. Rohit S/o. Shankar Rathod
Age: Major, Occu.: Service,
R/o. Through The Commissioner,
Food & Drug Administration, FDA Head
Quarters, Bandra-Kurla Complex,
Bandra East, Mumbai – 57
78. Prashant S/o. Manohar Warade,
As above (*Deleted*)
79. Pravin S/o. Abhiman Jagtap
Age: Major, Occu.: Service,
R/o.: C103, Sai Arcade, Plot No. 8,
Sector-20B, Airoli, Navi Mumbai – 400 708
and through Deputy Secretary, M.P.S.C.,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai – 01

80. Anil S/o. Vilas Chothe (*Deleted*)

81. Abhay S/o. Tulshiram Sangamwar
Age: Major, Occu.: Service,
R/o.: 1-9-93, Nishigandha,
Bhu Vikas Bank Colony,
Anand Nagar, Dist. Nanded – 431 602
and through Deputy Secretary, M.P.S.C.,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Marg, Fort,
Mumbai-01

82. Rincy Anthoney Chelte
Age: Major, Occu.: Service,
R/o.: Through The Commissioner,
Food & Drug Administration,
FDA Head Quarters,
Bandra-Kurla Complex, Bandra East,
Mumbai-57

83. The Commissioner,
Food & Drug Administration,
FDA Head Quarters,
Bandra-Kurla Complex,
Bandra East, Mumbai – 57

.. Respondents

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Advocate for Petitioner: Mr. V. D. Salunke
AGP for Respondents No. 1 & 83:

Mrs. M. A. Deshpande

Advocate for Respondents No. 16,22,73,74:

Mr. R. N. Dhorde, Senior Advocate a/w. Mr. P. S.
Dighe, Advocate i/b. Mr. V. R. Dhorde

Advocate for Respondents No. 31,32,44to46,53,54:

Mr. B. G. Sagade

Advocate for Respondents No. 8,9,24:

Mr. V. D. Hon, Senior Advocate i/b. Mr. A. V. Hon
Advocate for Respondents No.

5to7,11,13,14,15,17,19,21,23,37,50,56,60,65,66,77:

Ms. P. S. Talekar, Advocate i/b. Mr. S. B. Talekar
Advocate for Respondents No. 4,42,52,67:

Mr. M. T. Biradar

Advocate for Respondents No.

12,20,25,29,33to36,40,48,49,57,59,64:

Mr. M. S. Sonawane

Advocate for Respondent No. 70: Mr Devang Deshmukh
Respondents No. 15,77,82 – served through Paper
Publication

Respondents No. 10,28,47,55,68,70,78,80 – Deleted
Respondents No. 2,3,26,27,30,38,39,41,43,51,58,
61to63,69,71,72,73,75,76,78,79,81 – served

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AND

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WRIT PETITION NO.13920 OF 2019

1. Santoshsing s/o Kapurchandsing Rajput
Age: 37 Years, Occu.: Government Servant,
R/o.: At Jaikwadi South, Tq.: Paithan,
Dist.: Aurangabad-431107
2. Parag s/o Narayanrao Pathre
Age: 46 Years, Occu.: Government Servant,
R/o.: Gut No. 95, Plot No. 22,
Satara Parisar, Beed Bye Pass,
Tq.&Dist.: Aurangabad
3. Pankaj s/o Liladhar Yewale
Age: 41 Years, Occu.: Government Servant,
R/o.: Plot No. 71, Laxmi Nagar,
Behind Sindhi Colony,
Tq.&Dist. Jalgaon

**.. Petitioners
(Orig. Applicants)**

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Department,
Maharashtra State, Mantralaya,
Mumbai – 400 032
2. The Secretary,
The Maharashtra Public Service Commission,
Cooperage Telephone Building,
8th Floor, Maharshi Karve Road,

Cooperage, Mumbai – 400 021

3. The Commissioner,
Food & Drug Administration,
F.D. Headquarter, Bandra Kurla Complex,
Bandra (East),
Mumbai-400 057

**.. Respondents
(Orig. Respondents)**

4. Rajesh s/o Baburao Bankar
Age: Major, Occu.: Service,
5. Ajay s/o Mangalprasad Mahule
Age: Major, Occu.: Service,
6. Suresh s/o Sahebrao Deshmukh
Age: Major, Occu.: Service,
7. Bhagyashri Dinkar Kadam
Age: Major, Occu.: Service,
8. Anil Madhavrao Manikrao
Age: Major, Occu.: Service,
9. Appasaheb Anandrao Raskar
Age: Major, Occu.: Service,
10. Mahesh Balajirao Kautikwar
Age: Major, Occu.: Service,
11. Namdev Sitaramji Bhalerao
Age: Major, Occu.: Service,
12. Javed Husain Shaikh
Age: Major, Occu.: Service,
13. Anjali Mangalappa Mitkar
Age: Major, Occu.: Service,
14. Shashikant Pandurang Yadav
Age: Major, Occu.: Service,
15. Shrutika Kamalsingh Jadhav
Age: Major, Occu.: Service,

16. Swati Sudhakar Bharde
Age: Major, Occu.: Service,
17. Monika Arun Mohod
Age: Major, Occu.: Service,
18. Vijay Vitthal Nagare
Age: Major, Occu.: Service,
19. Nittin Pandurang Aher
Age: Major, Occu.: Service,
20. Manish Vishwas Gotmare
Age: Major, Occu.: Service,
21. Jeevan Dattatraya Jadhav
Age: Major, Occu.: Service,
22. Suhas Tanaji Sawant
Age: Major, Occu.: Service,
23. Mahesh Vinayak Deshpande
Age: Major, Occu.: Service,
24. Tazi Shehenaz Abdul Khalil
Age: Major, Occu.: Service,
25. Prashant Rajendra Ramteke
Age: Major, Occu.: Service,
26. Madhav Jagannath Nimse
Age: Major, Occu.: Service,
27. Atish Shivaji Sarkale,
Age: Major, occu.: Service,
28. Sunil Harishchandra Gawli
Age: Major, Occu.: Service,
29. Pravin Haridas Raut
Age: Major, Occu.: Service,
30. Hitesh Babubhai Parmar

- Age: Major, Occu.: Service,
31. Prachi Durgasingh Rathod
Age: Major, Occu.: Service,
 32. Raksh Manoharrao Edlawar
Age: Major, Occu.: Service,
 33. Sanjay Mohansing Rathod
Age: Major, Occu.: Service,
 34. Poonam Raghuvir Pednekar
Age: Major, Occu.: Service,
 35. Varsha Madhukar Choudhari
Age: Major, Occu.: Service,
 36. Satish Hirasingsh Chavan
Age: Major, Occu.: Service,
 37. Rohit Shankar Rathod
Age: Major, Occu.: Service,
 38. Sapna Surendra Kamble
Age: Major, Occu.: Service,
 39. Sachin Ashok Kamble
Age: Major, Occu.: Service,
 40. Manoj Nandkumar Ayya
Age: Major, Occu.: Service,
 41. Smt. Shamal Dipak Homkar
Age: Major, Occu.: Service,
 42. Vivek s/o Pandurang Khedkar
Age: Major, Occu.: Service,
 43. Ganesh Ramchandra Rokade
Age: Major, Occu.: Service,
 44. Shrikant Devendra Fule
Age: Major, Occu.: Service,

45. Milind Krushnarao Kaleshwarkar
Age: Major, Occu.: Service,
46. Arun Sakharam Godse
Age: Major, Occu.: Service,
47. Prashantkumar Bhaskarrao Aswar
Age: Major, Occu.: Service,
48. Neeraj Vitthalrao Lohakare
Age: Major, Occu.: Service,
49. Kishor Munirajji Rajne
Age: Major, Occu.: Service,
50. Vikas Vilasrao Patil
Age: Major, Occu.: Service,
51. Shital Vijay Gohade
Age: Major, Occu.: Service,
52. Manish Shriram Choudhari
Age: Major, Occu.: Service,
53. Savita Krushnaji Titar
Age: Major, Occu.: Service,
54. Baliram Damodhar Marewad
Age: Major, Occu.: Service,
55. Pravin Dinkar Harak
Age: Major, Occu.: Service,
56. Dnyaneshwar Mohan Darandale
Age: Major, Occu.: Service,
57. Gajanan Pralhad Ghirke
Age: Major, Occu.: Service,
58. Ashok Tukaram Rathod
Age: Major, Occu.: Service,
59. Sandip Narayan Narawane
Age: Major, Occu.: Service,

60. Jayshri Parappa Soudatti
Age: Major, Occu.: Service,
61. Chandrakant Arjun More
Age: Major, Occu.: Service,
62. Shubhangi Sadashiv Bankar
Age: Major, Occu.: Service,
63. Umesh Bhaurao Gharote
Age: Major, Occu.: Service,
64. Sachin Shivdas Bugad
Age: Major, Occu.: Service,
65. Nishigandha Pandurang Patil
Age: Major, Occu.: Service, ..Respondents
(Orig. Respondents)
66. Madhuri Balkrushna Sali
Age: Major, Occu.: Service,
67. Sujit Rangnath Bhadke
Age: Major, Occu.: Service,
68. Pramod Vitthalraoji Radke
Age: Major, Occu.: Service,
69. Pravin Aanurath Mhaske
Age: Major, Occu.: Service,
70. Rupesh Ashrath Whatkar
Age: Major, Occu.: Service,
71. Nitin Shankarrao Devre
Age: Major, Occu.: Service,
72. Manesh Mahadev Jagtap
Age: Major, Occu.: Service,
73. Satish Arunrao Polshettiwar
Age: Major, Occu.: Service,

74. Ravindra Mansing Salunke
Age: Major, Occu.: Service,
75. Prashant Manohar Warade
Age: Major, Occu.: Service,
76. Vivek Dattatraya Choudhari
Age: Major, Occu.: Service,
77. Ramdas Bhagwan Lonkar
Age: Major, Occu.: Service,
78. Sanjali Atmaram Desai
Age: Major, Occu.: Service,
79. Bhushan Popat Patil
Age: Major, Occu.: Service,
80. Parvin Abhiman Jagtap
Age: Major, Occu.: Service,
81. Anil Vilas Chothe
Age: Major, Occu.: Service,
82. Abhay Tulshiram Sangamwar
Age: Major, Occu.: Service,
83. Rincy Anthoney Chelte
Age: Major, Occu.: Service

**..Respondents
(Formal Parties)**

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Advocate for Petitioners: Mr. V. D. Salunke

AGP for Respondents No. 1 to 3:

Mrs. M. A. Deshpande

Advocate for Respondent No.5: Mr. N. L. Jadhav

Advocate for Respondents No. 13: Ms. P. S. Talekar

Advocate for Respondents No. 21&35: Mr. R. N.

Dhorde, Senior Advocate a/w. Mr. P. S. Dighe,

Advocate i/b. Mr. V. R. Dhorde

Advocate for Respondents No. 27 & 28:

Mr. B. G. Sagde

...

AND

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WRIT PETITION NO.5223 OF 2011

The Maharashtra Public Service Commission
Through its Secretary
3rd Floor, Bank of India Building,
Mahatma Gandhi road, Fort,
Mumbai 400 001

.. Petitioner**Versus**

1. Dhnanjay Keshavrao Sable
Age: 30 years, Occupation: Service,
Resident of: At Post Kokunda,
Taluka Kinwat, District Nanded
2. Lalit Diliprao Thakare
Age: 30 Years, Occupation: Service [Private]
Resident of: At Post Kokunda,
Taluka Kinwat, District Nanded
3. The State of Maharashtra
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai
4. Sandip Narayan Narwane
Age: 31 Years, Occupation Nil
Resident of: C-6, Flat No. 201,
Vedant Complex, Vartak nagar,
Thane [West]
5. Shaikh Javed Hussain
Age: 27 Years, Occupation: Service [Private]
Resident of: 19, Bagorza, HUDCO,
Delhi gate, Ahmadnagar
6. Sanjay Mohansing Rathod
Age: 39 Years, Occupation: Nil
Resident of: Gurusahani Nagar,
Back side of High Court, Plot No. 6,
House No. 4/32/164, Sector N-4, CIDCO,

Aurangabad

.. Respondents

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Advocate for Petitioner: Mr. Mukul S. Kulkarni
 AGP for Respondent / State: Mrs. M. A. Deshpande

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AND

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**WRIT PETITION NO.4470 OF 2011
 WITH
 CIVIL APPLICATION NO.9861 OF 2011**

1. Sujit S/o Rangnath Bhadke,
 Aged: 31 Years, Occu.: Private Service,
 R/o Flat No.B-18,
 Survey No.21/P, Samruddhi Park,
 Beed Bye-pass Road,
 Aurangabad
2. Baliram s/o Damodar Marewad,
 Age: 41 Years, Occu.: Service,
 R/o.: Kasliwal Marble,
 Beed-By Pass, Aurangabad

.. Petitioners**Versus**

1. The State of Maharashtra,
 Through its Principal Secretary,
 Medical Education & Drugs Department,
 Maharashtra State, Mantralaya,
 Mumbai – 32
2. The Maharashtra Public Service
 Commission, Bank of India Building,
 3rd Floor, Mahatma Gandhi Road,
 Hutatma Chowk, Mumbai – 400 001,
 Through its Secretary
3. Sandeep S/o Narayan Narwane,
 Aged: 31 Years, Occu.: Nil,
 R/o. C-6, Flat No. 201,
 Vedant Complex, Vartak Nagar,

Thane (West)

4. Sanjay Mohansingh Rathod,
Aged: 39 Years, Occu.: Nil,
R/o.: C/o. Guru Sahani Nagar,
Behind High Court,
Plot No. 6, House No. 4/32/164,
N-4, CIDCO, Aurangabad
5. Dhananjay Keshavrao Sable,
Aged: 30 Years, Occu.: Service,
R/o.: At Post Kokunda,
Tq.: Kinwat, Dist.: Nanded
6. Lalit Diliprao Thakare,
Aged: 30 Years, Occu.: Service,
R/o.: Ashtavinayak Nagar,
Shivaji Nagar (East),
Jail Road – Nashik Road, Nashik

.. Respondents

...

Advocate for Petitioners: Mr. R. N. Dhorde, Senior
Advocate a/w. Mr. P. S. Dighe i/b. Mr. V. R.
Dhorde

AGP for Respondent / State: Mrs. M. A. Deshpande
Advocate for Respondent No. 2: Mr. Mukul Kulkarni
Advocate for Respondents No. 5&6:
Mr. S. S. Jadhavar

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AND

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WRIT PETITION NO.5216 OF 2011

1. Sujit s/o Rangnath Bhadke,
Aged: 31 Years, Occ.: Private Service,
R/o. Flat No. B-18, Survey No.21/P,
Samruddhi Park,
Beed Bye-pass Road,
Aurangabad
2. Baliram Damodhar Marewad,

Age: 41 Years, Occu.: Service,
R/o.: At present Kasliwal Marble,
Beed Bypass, Satara Parisar,
Aurangabad

.. Petitioners

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Medical Education & Drugs Department,
Maharashtra State, Mantralaya,
Mumbai – 32
2. The Maharashtra Public Service
Commission, Bank of India Building,
3rd Floor, Mahatma Gandhi Road,
Hutatma Chowk, Mumbai – 400 001,
Through its Secretary
3. Mohan s/o Ganpatrao Kalaskar,
Aged: 34 Years, Occu.: Service,
R/o.: House No. 1/12/51,
Near Dr. Somani's House,
Vasant Nagar, Nanded,
Tq. & Dist.: Nanded

.. Respondents

...

Advocate for Petitioners: Mr. R. N. Dhorde, Senior
Advocate a/w. Mr. P. S. Dighe, Advocate i/b. Mr.
V. R. Dhorde

AGP for Respondent / State: Mrs. M. A. Deshpande
Advocate for Respondent No. 2: Mr. Mukul Kulkarni

...

AND

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WRIT PETITION NO.5224 OF 2011

The Maharashtra Public Service Commission
Through its Secretary
3rd Floor, Bank of India Building,
Mahatma Gandhi road, Fort,

Mumbai 400 001

.. Petitioner**Versus**

1. Mohan Ganpatrao Kalaskar
Age: 34 Years, Occupation: Service,
Resident of: House No. 1/12/51,
Near Dr. Somanies House,
Vasant nagar, Nanded
2. The State of Maharashtra
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai 400 032 **.. Respondents**

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Advocate for Petitioner: Mr. Mukul Kulkarni
AGP for Respondent / State: Mrs. M. A. Deshpande

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AND

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WRIT PETITION NO.6830 OF 2015

Anil s/o Kakasaheb Ugile
Age: 45 Years, Occu.: Nil
R/o C/o Datta Chewle,
Opp. Jindal Tower, Majge Nagar,
Kawa Road, Latur – 12 **.. Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Deptt.
Mantralaya, Mumbai – 32
2. The Maharashtra Public Service Commission,
Bank of India Building, 3rd Floor, Mahatma
Gandhi Road, Hutatma Chowk, Mumbai – 400001
Through its Secretary
3. Dhananjay s/o Keshvrao Sable,

Age: 34 Years, Occu.: Service,
R/o.: At Post Gokunda, Tq.: Kinwat,
Dist.: Nanded

4. Lalit s/o Diliprao Thakare,
Age: 34 Years, Occu.: Service,
R/o.: At Post Gokunda, Tq.: Kinwat,
Dist.: Nanded
5. Sandeep s/o Narayan Narwane,
Age: 35 Years, Occu.: Nil,
R/o C-6, Flat No. 2, Vedant Complex,
Vartak Nagar, Thane West
6. Shaikh Javed Hus
Age: 32 Years, Occu.: Service,
R/o 19, Bagre, HUDCO,
Delhi Gate, Aurangabad

.. Respondents

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Advocate for Petitioners: Mr. K. M. Nagarkar
AGP for Respondent / State: Mrs. M. A. Deshpande

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AND

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**WRIT PETITION NO.4199 OF 2011
WITH
CIVIL APPLICATION NO.2730 OF 2012**

1. Sanjay s/o Mohansingh Rathod,
Age: 39 Years, Occu.: Nil,
R/o House No.4/32/164,
Plot No.6, Gursahani Nagar,
Backside of High Court,
N-4, CIDCO, Aurangabad
2. Sandip s/o Narayan Narwane,
Age: 31 Years, Occu.: Service,
R/o.: C-6, Plot No. 201,
Vedant Complex, Vartak Nagar,
Thane (West)

.. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs
Department, Mantralaya,
Mumbai-400032
 2. Maharashtra Public Service Commission,
2nd Floor, Bank of India Building,
Hutatma Chowk,
Mahatma Gandhi Marg,
Mumbai – 400 001
 3. Lalit s/o Diliprao Thakre,
Age: 30 Years, Occu.: Service,
In Sandoz Pvt. Ltd., Kalwa,
District Thane
 4. Shaikh Javed Hussain
Age: 27 Years, Occu.: Pvt. Service,
R/o.: 19, Bag Roza, HUDCO,
Delhi Gate, Ahmednagar
- .. Respondents**

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Advocate for Petitioners: Ms. P. S. Talekar
 AGP for Respondent / State: Mrs. M. A. Deshpande
 Advocate for Respondent No. 2: Mr. Mukul Kulkarni
 Advocate for Applicant [CA/2730/2012]:
 Mr. M. C. Swami

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AND

...

WRIT PETITION NO.5209 OF 2011
WITH
CIVIL APPLICATION NO.14376 OF 2011
CIVIL APPLICATION NO.7104 OF 2015
CIVIL APPLICATION NO.9699 OF 2021

1. Dnyaneshwar s/o Mohan Darandale,
Age: 33 Years, Occupation: Private Service,
R/o.: Landewadi (Sonai), Tq.: Newasa,

District: Ahmednagar

2. Chandrakant S/o Arjun More,
Age: 35 Years, Occupation: Private Service,
R/o.: 22, Saraswati Colony, Near Bus Stand,
Sindkheda, District: Dhule .. **Petitioners**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Medical Education & Drugs Department,
Maharashtra State, Mantralaya,
Mumbai-32
2. The Maharashtra Public Service Commission,
Bank of India Building,
3rd Floor, Mahatma Gandhi Road,
Hutatma Chowk,
Mumbai-400 001
Through its Secretary
3. Sandeep S/o Narayan Narwane,
Aged: 31 Years, Occu.: Nil,
R/o.: C-6, Flat NO. 201,
Vedant Complex, Vartak Nagar,
Thane (West)
4. Sanjay Mohansingh Rathod,
Aged: 39 Years, Occu.: Nil,
R/o. C/o. Guru Shani Nagar,
Behind High Court,
Plot No. 6, House No. 4/32/164,
N-4, Cidco, Aurangabad
5. Dhananjay Keshavrao Sable,
Age: 30 Years, Occu.: Service,
R/o.: At Post Kokunda,
Tq.: Kinwat, Dist.: Nanded
6. Lalit Diliprao Thakare,
Age: 30 Years, Occu.: Service,
R/o.: at Post Kokunda,
Tq.: Kinwat, Dist.: Nanded

7. Shaikh Javed Hussain,
Age: 27 Years, Occu.: Private Service,
R/o.: Bagroza HUDCO, Delhi Gate,
Ahmednagar
8. Santoshsing S/o Kapurchandsing Rajput,
29 years, Occu.: Service,
At Post Jaikwadi (South),
Tq.: Paithan, Dist.: Aurangabad
9. Parag S/o Narayanrao Pathare,
Age: 37 Years, Occu.: Govt. Service,
R/o. C/o. Smt. S. B. Raut, B-70/1,
"Aasra" Devanagari, Shahanoorwadi,
Dargah Road, Dist.: Aurangabad
10. Pankaj S/o Liladhar Yewale,
Age: 32 Years, Occu.: Govt. Service,
R/o.: 71, Laxmi Nagar, Behind Sindhi Colony,
District: Jalgaon **.. Respondents**

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Advocate for Petitioners: Mr. B. G. Sagade
 AGP for Respondent / State: Mrs. M. A. Deshpande
 Advocate for Respondent No.2: Mr. Mukul Kulkarni
 Advocate for Respondents No. 8 to 10:
 Mr. M. C. Swami

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AND

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WRIT PETITION NO.4506 OF 2011
WITH
CIVIL APPLICATION NO.9681 OF 2011
CIVIL APPLICATION NO.14498 OF 2011
CIVIL APPLICATION NO.14500 OF 2011

Mahesh s/o Vinayakrao Deshpande,
 Age: 34 Years, Occu.: Educated unemployed,
 R/o.: Parali Vaijinath, Tq.: Parali Vaijinath
 District: Beed **.. Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary
Medical Education and Drugs Deptt,
Mantralaya, Mumbai 32
 2. The Maharashtra Public Service
Commission, Bank of India Building,
3rd Floor, Mahatma Gandhi Road,
Hutmatma Chowk, Mumbai 400 001
Through its Secretary
 3. Lalit s/o Diliprao Thakare,
Age: 30 Years, Occu.: Service (Private)
R/o. Ashtavinayak Nagar,
Shivaji Nagar, Jail Road,
Nashik Road, Nashik
 4. Mohan s/o Ganpatrao Kalaskar,
Age: 34 Years, Occu.: Service,
R/o.: House No. 1/12/51,
Near Dr. Somanies House,
Vasant Nagar, Nanded
Tq. and District: Nanded
- .. Respondents**

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Advocate for Petitioner:

Mr. V. D. Hon, Senior Advocate h/f. Mr. A. V. Hon
AGP for Respondent / State: Mrs. M. A. Deshpande
Advocate for Respondent No. 2: Mr. Mukul Kulkarni

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CORAM:	S. V. GANGAPURWALA & R. N. LADDHA, JJ.
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Reserved For Judgment On:	28.10.2021
Judgment Pronounced on:	18.02.2022

Judgment (Per S. V. Gangapurwala, J.):

1. All these Writ Petitions are based on
common set of facts and involve common question of

law. To avoid rigmarole are decided by common Judgment.

2. Writ Petition Nos. 4199 of 2011, 5209 of 2011, 4506 of 2011, 4470 of 2011, 5216 of 2011, 5223 of 2011, 5224 of 2011 and 5830 of 2015 assail the Judgment and Order passed by the Maharashtra Administrative Tribunal dated 03.05.2011 in Original Application Nos. 70 of 2011 and 191 of 2011. Under the said order, the Tribunal partly allowed the Original Application. The Select List prepared by the MPSC on the basis the marks obtained in the Interview is quashed and set aside. The other reliefs claimed in the Original Application are rejected. In Original Application No. 70 of 2011 the original Applicants assailed the criteria of selection adopted by the Maharashtra Public Service Commission (MPSC) for preparing the Select List of the post of Drug Inspector General State Service, Group-B in Food and Drugs Administration thereby selecting the candidates only on the basis of the marks obtained in the interview and sought directions to quash

the Select List prepared and further sought directions against the MPSC to prepare the Select List on the basis of the criteria declared in the Advertisement No. 069 of 2008 dated 29.07.2008 i.e. on the basis of the marks obtained in the Written Examination as well as the Interview. By amendment, additional relief was claimed by the Original Applicants and challenged the Rule 7(II) and (9) of the Maharashtra Public Service Commission Rules of Procedure, 2005 as arbitrary and unconstitutional.

3. In Original Application No. 191 of 2011, the Applicant challenged the Select List prepared for filling up the post of Drug Inspector, however, sought direction to consider the marks obtained by the candidates in written as well as interview and further sought inquiry.

4. The Petitioner in Writ Petition No. 1218 of 2013 challenged the order of the Tribunal in Original Application No. 535 of 2012 dated 27.11.2012 and further sought directions to

appoint him as Drug Inspector. He also sought direction to set aside the recommendations of the candidates for the post of Drug Inspectors, more particularly, Respondents No. 3 to 24 and 70 to 78. The other prayers were similar to the one made in Writ Petition No. 13920 of 2019. In Original Application No. 535 of 2012 the Original Applicant made similar prayers made in Writ Petition No. 1218 of 2013. Under order dated 27.11.2012 the Tribunal disposed of the Original Application by giving liberty to the Original Applicant to file fresh Original Application specifying different grounds in the proper perspective of the order passed in Original Application No. 63 of 2011 and also the order passed by High Court in Writ Petition No. 1149 of 2011. According to the Petitioner this Court had directed the tribunal to decide Original Application No. 535 of 2012 on merits. The Petitioner had not sought liberty to withdraw said Original Application. The Petitioner was asked to submit the grounds raised in the Original Application different than other Original

Application. The Petitioner sought leave to file Miscellaneous Application stating the grounds but the Tribunal disposed of the Original Application of the Petitioner. The Court had directed tribunal to decide Original Application No. 535 of 2012 with Original Application No. 63 of 2011 within 6 months but instead Original Application No. 535 of 2012 was disposed of with liberty to file fresh Original Application. The Petitioner contends that he had not prayed for withdrawal of Original Application No. 535 of 2012. In view of that has filed Writ Petition No. 1218 of 2013 requesting the Court to decide it finally in the High Court.

5. Writ Petition No. 13920 of 2019 is filed in High Court directly on the ground that tribunal did not decide the matter on merits and though the Petitioners therein had not requested for withdrawal of the Original Application the tribunal passed order directing withdrawal of the Original Application. The Petitioners requested this Court to decide the Petition on merits. The Petitioners in Writ Petition No. 13920 of 2019

challenge the recruitment process conducted by he MPSC pursuant to the Advertisements dated 21.12.2007, 11.02.2008 and 29.07.2008 as arbitrary and violative of Article 14 of the Constitution of India. The Petitioners have challenged the Notifications of the recommendation of the candidates for the post of Drug Inspectors published by MPSC on 2nd and 3rd December, 2010 and directed *De novo* recruitment process. The Petitioners therein sought directions against the MPSC to recommend the names of the Petitioners and to appoint them on the posts of Drug Inspectors and further cancel the subsequent appointment orders recommended by the MPSC to the candidates who are ineligible. The Petitioners therein also challenged Rule 5.13.1 and 5.13.2 as arbitrary, illegal. The Petitioners sought directions to rectify the ambiguity of Section 9 (ii) and (iii) of the Maharashtra Public Service Commission Rules of Procedure, 2005.

6. The factual matrix in nutshell can be culled out as under.

7. Three Advertisements were issued inviting applications for the post of Drug Inspectors. The first Advertisement is dated 21.12.2007 for 48 posts to be filled in from General category candidates. The second Advertisement is dated 11.02.2008 for filling in 32 posts from Reserved Category candidates. The 3rd Advertisement dated 29.07.2008 was for filling in 16 posts from General category candidates.

8. The Written Examination pursuant to all 3 Advertisements was held at the same time. The Select List was prepared on the basis of marks obtained in Interview and the marks obtained in the Written Examination were not considered. The Original Application came to be filed before the Maharashtra Administrative Tribunal. The Tribunal under it's Judgment and Order dated 03.05.2011 in Original Application Nos. 70 of 2011 and 191 of 2011 set aside the Select List prepared by the MPSC on the basis of the marks obtained in Oral Interview. The rest of the reliefs claimed were

negatived. The Tribunal observed in Paragraph No. 43 of the order that the entire process of selection stands quashed and set aside, as such, the relief regarding inquiry of process of selection was not considered. The Tribunal observed that the criteria published in the Advertisement as Point No. 7.6 is not in tune with the procedural Rules of the MPSC however relief was not granted to the Applicants in the Original Applications.

9. In Advertisement No. 069 of 2008, more particularly, Clause 7.6 prescribed that the combined Screening Test for all the candidates who applied in accordance with Advertisement No. 015, 020 and this Advertisement No. 069 will be held on 05.10.2008 at Mumbai Centre only. The marks obtained in Written Test will be added to the marks obtained in the Interview to decide the final result. The earlier 2 Advertisements vide No. 015 of 2007 and 020 of 2008 does not prescribe for considering the marks obtained in the Screening Test. It does not specifically state

that the marks obtained in the Screening Test will be added to the marks obtained in the Interview. Along with the application form the Prospectus were also supplied. The final Select List is published on the basis of the Interviews. The marks obtained in the Screening Test / Written Test are not considered.

10. We have heard the learned Counsel for the parties.

11. The learned Advocates challenging the Judgment of the Tribunal setting aside the Select List on the basis of the marks obtained in oral interview submits that Tribunal on one hand has upheld the rule and on other hand has set aside the Select List on the ground that the marks in the Screening Test are not considered. The relevant Rule does not mandate marks obtained in the Screening Test to be considered. It is only meant for shortlisting of candidates and the marks for Oral Interview are only required to be considered for direct recruits. It is not open for

the candidates participating in the selection process without protest to assail the procedure adopted. It is further submitted that as only marks in the viva voce are required to be considered as per the Rules the MPSC had corrected the mistake as that are cropped up in the last Advertisement No. 69 of 2008 and as such the same was done in consonance with the Rules which is permissible. Reliance is placed on the Judgment of the Apex court in case of **Barot Vijaykumar Balakrishna and others Vs. Modh Vinaykumar Dasrathlal and others** reported in (2011) 7 SCC 308. Reliance is also placed on the Judgment of the Apex Court in case of **Rajya Sabha Secretariat and others Vs. Subhash Baloda and others** reported in (2013) 5 SCC 169 and it is further submitted that in absence of any provision in the statutory Rules shortlisting can be done on the basis of the administrative instructions. It is further submitted that all the necessary parties are required to be added. All those who have been issued with the appointment orders have not been

made parties. The Petition deserves to be fail on the said count. Reliance is placed on the Judgment of the Apex Court in case of **Bhagwanti and others Vs. subordinate Services Selection Board, Haryana and another** reported in 1995 Suppl. (2) SCC 663. In case of **Tridip Kumar Dingal and others Vs. State of West Bengal and others** reported in (2009) 1 SCC 768. The reliance is also placed on the Judgments of the Apex Court in cases of **Malik Mazhar Sultan and another Vs. U.P. Public Service Commission and others** reported in (2006) 9 SCC 507, **Ashish Kumar Vs. State of Uttar Pradesh and others** reported in (2018) 3 SCC 55 so also **Javid Ahmad Mir and others Vs. State of J and K and others** reported in 2019 SCC Online J&K 542.

12. The learned Advocates for the Original Applicants before the Tribunal submit that the Advertisement No. 069 of 2008, more particularly, Clause 7.6, specifically provides that the marks obtained in the Written Test will be added to the marks obtained in the interview and the combined marks would be considered. Deviation therefrom was

not permissible. The Tribunal has rightly considered the said aspect of the matter. The selection criteria and the procedure published in the Advertisement are required to be adhered to and if the process is continued dehors the procedure prescribed in the Advertisement the same would be illegal. To substantiate their submissions that once Advertisement is issued selection process should continue as per the Advertisement and deviation therefrom is not permissible. The learned Counsel rely upon the Judgment of the Apex Court in case of **Madan Mohan Sharma and another Vs. State of Rajasthan and others** reported in **AIR 2008 SC 1657**. Another Judgment of the Apex Court in case of **K. Manjusree etc Vs. State of Andhra Pradesh and another** reported in **AIR 2008 SC 1470**. It is submitted by the learned Counsel that the Oral Interview Test is not a satisfactory test for assessing and evaluating the capacity and calibre of candidates. Reliance is placed on the Judgment of the Apex Court in case of **Ajay Hasia etc. Vs. Khalid Mujib**

Sehavardi and others reported in AIR 1981 SC 487 (1).

13. It would appear that the Advertisement No. 015 of 2007 and 020 of 2008 did not prescribe that the marks in the Screening Test would be considered and added to the marks obtained in the interviews. Only Advertisement No. 069 of 2008 prescribed that the marks obtained in the Screening Test would be considered and added to the marks obtained in the Oral Interviews. The combined selection process was undertaken after the 3rd Advertisement.

14. It would be relevant to consider the relevant Rules.

Rule 7 of the Maharashtra Public Service Commission Rules of Procedure, 2005 reads thus-

"Rule 7. Mode of Recruitment-

The Commission on receipt of a requisition from the Government, in respect of posts to be filled up by nomination shall adopt any one of the following methods for recruitment, viz.:-

- (i) Competitive Examination.
- (ii) Direct recruitment.

(iii) Competitive Examination may also be held limited to departmental candidates only.

(I) Competitive Examination.- A Competitive Examination may consist of any one or more of the following viz.:-

- (I) Written Preliminary Examination.
- (ii) Written Main Examination.
- (iii) Physical Test
- (iv) Interviews

(II) Direct recruitment - Shall consist of any of the following:-

- (i) By interviews only when the number of eligible applicants is within the proportion prescribed under the provision of Rule 9 (i).
- (ii) First by shortlisting candidates by applying criteria and thereafter by interview of the short-listed candidates.
- (iii) By holding the screening test of the eligible candidates for shortlisting candidates based on their merit of the screening test and interview of such short listed candidates."

Rule 9(iv) of the Maharashtra Public Service Commission Rules of Procedure, 2005 reads thus-

"9. Direct Recruitment-

(iv) In every case where the Commission decide to hold screening test the Commission may also prescribe the syllabus, type and the number of questions, duration of the test, the marking system etc. The marks obtained by these candidates in the screening test shall be taken into account only for the purpose of shortlisting of candidates for interview and shall not be taken into account for the final selection."

Further, Part 5 of the Application Form following Clauses find place –

“(५.४.१) आयोगाच्या स्वेच्छाधिकारानुसार चाळणी परीक्षा, अथवा निकष निश्चित करून मुलाखतीच्या आधारे पात्र उमेदवारांची निवड करण्यात येईल.”

“(५.४.२) चाळणी परीक्षा घेण्याचे निश्चित झाल्यास परीक्षेतील गुण अंतिम गुणवत्ता यादीमध्ये विचारात घ्यावयाचे आहेत, किंवा कसे, याविषयी प्रकरणपरत्वे निर्णय घेण्यात येईल.”

15. Rule 9(iv) as reproduced above clarifies that in every case where the commission decides to hold Screening Test the marks obtained by the candidates in the Screening Test shall be taken into account only for the purpose of shortlisting of the candidates for interview and shall not be taken into account for the final selection.

16. The Written Test as held was a Screening Test for the purpose of shortlisting the candidates for the interview. The Rule does not authorize the MPSC to consider the marks obtained in the Screening Test for the final selection and the selection is to be made on the basis of the interviews only. Under Clauses 5.4.1 and 5.4.2 of the Part 5 of the Application Form discretion is

retained by the MPSC to consider whether the marks of the Screening Test are to be added while preparing the Select List. However, Rule 9(iv) of the Rules is abundantly clear. Rule 7 of the Rules laying down mode of recruitment also prescribes that the direct recruitment would be by interviews only when the number of eligible applicants is within the proportion prescribed under Rule 9 (i). Rule 7 (ii) prescribes that the candidates will be first shortlisted by applying the criteria and thereafter by interview of the shortlisted candidates. Clause (iii) of Rule 7 prescribes that the MPSC may hold the Screening Test of the eligible candidates for shortlisting the candidates based on their merit of the Screening Test and interview of such shortlisted candidates.

17. Rule 9(iv) and Rule 7, as discussed above, leaves no room for doubt that the direct recruitment is based on the interviews and the marks obtained in the Screening Test is only meant for shortlisting the candidates. The Screening Test is not required to be conducted if the number

of eligible Applicants is within the proportion prescribed under Rule 9(i). It is only if the Applicants are more than the question of shortlisting the candidates arrives, so also, holding the Screening Test. The Screening Test is held only for the purpose of shortlisting the candidates and not beyond that. The first 2 Advertisement also did not prescribe for considering the marks obtained in the Screening Test. It is only in the 3rd Advertisement bearing No. 069 of 2008 Clause 7.6 prescribes that the marks obtained in the Written Test will be added to the marks obtained in the interview to decide the final result. The combined Screening Test was held of all the candidates applying pursuant to all the 3 Advertisements. Even the 3rd Advertisement prescribes the same.

18. Rule 9(iv) read with Rule 7 permits the Screening Test only for the purpose of shortlisting the candidates and no further and the select list is prepared pursuant to the marks obtained in the interviews. The reliance was

placed by the Tribunal and the learned Counsel appearing in the Original Application on the Judgment of the Apex Court in case of **Madan Mohan Sharma and another Vs. State of Rajasthan and others** reported in **AIR 2008 SC 1657** to submit that when once Advertisement for appointment is issued based on Government Circular, change in eligibility criteria, during selection process is not permissible.

19. It is to be noted that the eligibility criteria is not changed, the qualification remained the same. The 2 Advertisements also did not contain a Clause that the marks obtained in the Screening Test will be added to the marks of the interview. It was only the 3rd Advertisement prescribing consideration of the marks obtained in the Screening Test. The Advertisement cannot be beyond the Rules. Rule 9 (iv) specifically states that the Screening Test is only for the purpose of shortlisting the candidates and no further. The marks obtained in the interview are only required to be considered. The Rules specifically lays down

the modality of selecting the candidates. The Clauses of the Advertisement cannot go beyond the Rules. Moreover, prior to the interview the decision, it appears, is taken by the MPSC to prepare the Select List on the basis of the marks obtained in the interviews. The same is applied to all the candidates. The candidates participated in the selection process without demur now they cannot contend otherwise. It has been held by the Apex Court in case of **Ashish Kumar Vs. State of Uttar Pradesh and others** reported in 2018 (3) SCC 55 that if there is variance in the Advertisement and the Statutory Rules, the statutory rules would take precedence. The Rules of Procedure 2005 of MPSC specifically provides that the marks obtained in the Screening Test are only meant for shortlisting and the selection is to be made on the basis of the marks obtained in the interview. In view of that, it would be futile now for the Original Applicants before the Tribunal to contend, that too, after participating in the

selection process that the marks in the Screening Test ought to have been added.

20. In the light of above, the impugned Judgments of the Tribunal setting aside the Select List on the ground that the marks in the Screening Test were not added is set aside.

21. Mr. Salunke, learned Counsel relying upon the Judgment of the Apex Court in case of the **Maharashtra Public Service Commission Vs. Sandeep Shriram Warade and others** passed in **Civil Appeal No. 4597 of 2019** dated May 3, 2019 and submits that the research experience in research and development laboratory cannot be equated with the experience in the manufacturing and testing of drugs. Many selected candidates do not possess the experience in manufacturing and testing of drugs and possess experience only in research and development laboratory. According to the learned Counsel some of the Candidates gave forged documents. Such candidates were ineligible to be

appointed. The learned Counsel gave a list of such candidates.

22. According to the Advocates for the selected candidates, the Central Rules nowhere prescribed possessing the experience in manufacture and testing of drugs and it is open for the employer to prescribe for the qualification. Reliance is placed on the Judgment of the Full Bench of the Allahabad High Court in case of **Kuldeep Singh and others Vs. State of U. P. and another** reported in (2014) 104 ALR 698 and also Judgment of the Delhi High Court dated 18.02.2020 in case of **Union Public Service Commission Vs. Nidhi Pandey and another**.

It is further contended that if there is variance in Advertisement and Statutory Rules, the Statutory Rules shall prevail. Reliance is placed on the Judgments of the Apex Court in case of **Malik Mazhar Sultan and another Vs. U.P. Public Service Commission and others** reported in (2006) 9 SCC 507, **Ashish Kumar Vs. State of Uttar Pradesh and others** reported in (2018) 3 SCC 55 so also

Javid Ahmad Mir and others Vs. State of J and K and others reported in 2019 SCC Online J&K 542.

23. The Advertisement pursuant to which the Petitioners and the Respondents had filled in the application prescribes the qualification to be possessed by the candidate for the post of Drugs Inspector. The Rules are framed under Proviso to Article 309 of the Constitution of India by the State of Maharashtra namely the Joint Commissioner (Drugs), Assistant Commissioner (Drugs) and Drugs Inspector in the Food and Drugs Administration, Maharashtra State (Recruitment) Rules, 2002 (*hereinafter referred to as "Rules-2002"*).

24. The qualification prescribed for the appointment to the post of Drugs Inspector under the Rules-2002 is provided under Rule 5. The same reads thus-

"5. Appointment to the post of Drugs Inspector, in the Food and Drugs Administration shall be made:-

by nomination from amongst the candidates who,-

(a) unless already in the service of Government are not more than 35 years of age;

(b) a degree in Pharmacy or Pharmaceutical chemistry or Medicine with specialisation in Clinical Pharmacology or Microbiology from a University established in India by Law;

(c) possess practical experience gained after acquiring above qualification in the manufacture or testing of drugs or enforcement of the provisions of the Act for a period of not less than three years:

Provided further that, preference may be given to candidates having a post-graduate degree in the subject mentioned in sub-clause (b) of this rule or research experience in the synthesis and testing of drugs or practical experience in the manufacture of drugs:

Provided further that, the age limit may be relaxed in the case of candidates who possess exceptional qualification or experience or both. "

25. The recruitment of the persons to the post of Drug Inspectors in the Food and Drugs Administration Maharashtra State would be governed by the Rules operating in the field. The qualification prescribed in the Rules will have to be complied with. The persons should have the necessary qualification as prescribed under the Rules as on the date of filling in the application pursuant to the Advertisement. The Advertisement and the Rules framed under the Proviso to Article 309 of the Constitution of India by the State of

Maharashtra prescribe the same qualifications. A person for being eligible to be appointed by nomination on the post of Drug Inspector has to possess practical experience gained after acquiring the qualifications mentioned therein in the manufacture or testing of Drugs or enforcement of the provisions of the Act for a period of not less than 3 years. The necessary qualification prescribed under the Rules and the Advertisement cannot be diluted or done away with.

26. The Apex Court in case of ***The Maharashtra Public Service Commission Through Its Secretary Vs. Sandeep Shriram Warade and others*** (*supra*) has observed that experience of testing has to be co-related to the manufacturing process which naturally will be entirely different from the testing carried out in the research and development laboratory before the produce is released for manufacture and sale in the market. The experience in testing of drugs in the research and development laboratory and the testing done at the time of manufacture before sale cannot be the

same and has to be rejected. The Apex Court in the said Judgment also observed that it is the employer who is best suited to decide the requirement a candidate must possess according to the needs of the employer and the nature of the work. The court cannot lay down the conditions of eligibility, much less can delve into the issue with regard to the desirable qualifications. If the language of the Advertisement and the Rules are clear, the Court cannot sit in Judgment over the same. If there is an ambiguity in the Advertisement or it is contrary to any Rules or law the matter has to go back to the Appointing Authority after appropriate orders, to proceed in accordance with law. The Apex Court further observed in the said Judgment that in no case can the Court in the garb of judicial review sit in the chair of the Appointing Authority to decide what is best for the employer and interpret the conditions of the Advertisement contrary to the plain language of the same. In the said case viz.

The Maharashtra Public Service Commission Through

Its Secretary Vs. Sandeep Shriram Warade and others (*supra*) the M.P.S.C. challenged the Judgment of the High Court. The High Court held that candidates possessing the requisite years of experience in research and development of drugs and testing of the same are also eligible to be considered for appointment to the post of Assistant Commissioner (Drugs) and Drug Inspector. It was the contention of the M.P.S.C. that such candidates are ineligible and its stand was accepted by the Apex Court. The clause in the Advertisement in the matter before the Apex Court prescribing experience for being eligible to apply for post of Drug Inspector and that in the present Advertisement is at verbatim the same.

27. In the case of **Kuldeep Singh and others Vs. State of U. P. and another** (*supra*) the Full Bench of the Allahabad High Court was required to consider "whether the experience required in the Proviso to Rule 49 of the Drugs and Cosmetics Rules, 1945 is only a bar of authorisation to inspect the manufacture of substances, or is an

essential qualification under Rule 49 for direct appointment as Drug Inspector under Rule 5(4) of the Uttar Pradesh State Drug Control Gazetted Officers' Service Rules, 1995. The Full Bench in said case held that the experience referred to in First Proviso to Rule 49 of the Drugs and Cosmetics Rules, 1945 has not been made an essential qualification for appointment as Drug Inspector. The effect of First Proviso is that only an inspector who holds the experience as specified in it is authorised to inspect the manufacture of a substance specified in Schedule 'C' to the Rules. In the said case, the Uttar Pradesh State Drug Control Gazetted Officers Service Rules, 1995 (*hereinafter referred to as "Rules-1995"*) were enacted by the Government in supersession of all existing Rules and Orders to regulate the recruitment and conditions of service of persons appointed to the Gazetted service of State Drug Control Officers in Uttar Pradesh. Rule 8 of Rules-1995 prescribing academic qualification of candidates appointed by direct recruitment to

the post of Inspector of Drugs suggests that candidate must possess such qualification as have been prescribed under the Rules made by the Central Government.

28. In the present matter, the Rules are framed by the Government of Maharashtra in exercise of the powers conferred by Proviso to Article 309 of the Constitution of India regarding the recruitment to the post of Joint Commissioner (Drugs), Group-A, Assistant Commissioner (Drugs), Group-A and Drugs Inspector, Group-B in the Food and Drugs Administration under Medical Education and Drugs Department of the Government of Maharashtra namely the "Joint Commissioner (Drugs), Assistant Commissioner (Drugs) and Drugs Inspector in the Food and Drugs Administration, Maharashtra State (Recruitment) Rules, 2002. Rule 5 therein prescribes the qualification and experience possessed by a candidate for appointment to the post of Drugs Inspector in the Food and Drugs Administration under under Medical Education and Drugs Department of the Government

of Maharashtra. The qualification and experience prescribed in the Advertisement and said Statutory Rules is same. The same has been interpreted by the Apex Court in case of **Maharashtra Public Service Commission Vs. Sandeep Shriram Warade and others** (*Supra*).

29. The next contention of the Petitioners in Writ Petition No. 1218 of 2013, Writ Petition No. 13920 of 2019 is that the selection for the candidates is not on merits. Many of the selected candidates did not possess the minimum qualification set out in the Advertisements and the Rules. Some of the candidates have filed forged documents and still are selected. On these grounds the appointments are also assailed.

30. The documents filed by the persons who are selected and the validity of the Select List *qua* the qualification, eligibility criteria and the marks obtained were not subject to scrutiny before the Maharashtra Administrative Tribunal. It would be difficult for this Court in it's writ

jurisdiction under Article 226 of the Constitution of India to verify the genuineness of each and every documents and also to consider the eligibilities submitted by them, more particularly, when there are rival contentions in that regard. The Committee was also constituted to verify the documents and the eligibility of the selected candidates. The selected candidates have also affirmed that the re-verification was done by the Committee and it was found that the documents submitted by those persons selected were genuine. The complete details are not placed by the MPSC of the re-verification done. In absence thereto, it will not be possible for this Court to give a conclusive finding.

31. It has been contented by Mr. Salunke, the learned Counsel for the Petitioners that the following candidates were ineligible to be appointed-

**Abstracted data of ineligible candidates for the post
R & D EXPERIENCE CANDIDATES**

Resp. No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C. Exhibit-Page 114 to 124	Documents Page No in Writ Petition

R 14	Shashikant P. Yadav	Not eligible, no relevant document submitted. Not eligible due to R & D experience.	4.1.13.2, 4.1.13.5, 4.1.13.6, 5.3.14	582 TO 594
R 18	Vijay Vithal Nangare	Not eligible due to R & D experience. Photo not affixed. Non Creamy layer Certificate has not submitted. Higher income.	5.3.10, 5.3.16, 5.3.25, 5.3.14	482 TO 493
R 20	Manish V. Gotmare	No relevant experience, not eligible due to R & D experience, Misleading information given, Trainee.	6.14.1, 5.3.14	394 TO 401
Documents not attached in writ petition to avoid bulkiness				
Resp. No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C Exhibit-Page 114 to 124	Documents Page No in Submission
R 28	Sunil Gawali	No relevant experience, not eligible due to R & D experience	4.1.13.5, 4.1.13.8, 5.3.14	01 TO 12
R 25	Prashant Rajendra Ramteke	No relevant experience, not eligible due to R & D experience	4.1.13.5, 4.1.13.8, 5.3.14	13 TO 22
R 31	Prachi Durgasingh Rathod	Non Creamy layer Certificate has not submitted. No relevant experience, not eligible due to R & D experience	5.3.25, 4.1.13.5, 5.3.14, 4.1.13.8	23 TO 31
R 62	Shubhangi Sadashiv Bankar	No relevant experience, not eligible due to R & D experience	4.1.13.5, 4.1.13.8, 5.3.14	32 TO 41
R 34	Punam Raghuvir Pednekar	No relevant experience, not eligible due to R & D experience	4.1.13.5, 4.1.13.8, 5.3.14	42 TO 51
R 24	Smt. Tazi S. Farahat Abdul Kahlil	No relevant experience, not eligible due to R & D experience	4.1.13.5, 4.1.13.8, 5.3.14	52 TO 59

CANDIDATES PRODUCED FAKE / FORGED EXPERIENCE CERTIFICATE

Resp. No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C. Exhibit-Page 114 to 124	Documents Page No in Writ Petition
R 4	Rajesh Baburao Bankar	Forge Document submitted	6.14.1, 4.2.7	670 TO 672
R 5	Ajay Mangalprasad Mahule	Forge Document submitted	6.14.1, 4.2.7	669

R 6	Suresh S. Deshmukh	Fake certificate produced about Marathi Language. No Marathi subject in SSC page no 441	4.1.4, 5.3.20	433 TO 444
R 13	Anjali M. Mitkar	Supress the fact as Trainee, not qualified. No relevant experience. Fake experience certificate produced, *Govt. Scrutiny report on page no 683-687	6.3.1, 6.14.1, 6.14.2.4, 6.14.2.5, 4.1.13.4, 4.1.13.5	305 TO 318 & 683 TO 687
R 19	Nitin Pandurang Aher	No relevant document produced at the time of interview. Despite direction on interview call letter. Forge experience certificate submitted. *Govt. Scrutiny report on page no. 652	5.3.14, 5.3.19, 5.3.24 & 25	533 TO 543 & 652
R 21	Jeevan D. Jadhav	No relevant dicument produced at the time of interview. Despite direction on interview call letter. Forge experience certificate produced *Govt. Scrutiny report on page no 658	4.1.13, 5.3	522 TO 532 & 658
R 22	Suhas Tanaji Sawant	No relevant experience. Misleading information, Special treatment by M.P.S.C., Trainee experience	4.1.13.4, 5.3.14, 4.2.7, 6.3.1	319 TO 327
R 23	Mahesh Vinayakrao Deshpande	No relevant document produced t the time of interview. Despite direction on interview call letter. *Govt scrutiny report on page no 654-655 (Forge experience certificate produced)	6.14.1, 4.2.7	544 TO 550 & 654 TO 655
R 32	Rakesh Manoharrao Edlawar	Forge document submitted, Govt. Scrutiny report on page no 668	6.14.1, 4.2.7	668
R 35	Varsha Madhukar Choudhari	No relevant document produced at the time of interview. Despite direction on	5.3.25	551 TO 559 & 653

		interview call letter. Non Creamy layer Certificate has not submitted. *Govt. Scrutiny report on page no 653 (Forge experience certificate produced)		
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CANDIDATES HAVING LESS EXPERIENCE

Resp .No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C. Exhibit- Page 114 to 124	Documents Page No in Writ Petition	Documents Page No in Submission
R 8	Anil Madhavrao Manikrao	No relevant experience, Suppress trainee Experience	4.1.13.4, 5.3.14, 6.14.1	371 TO 384	
R 10	Mahesh B. Kautikwar	No relevant experience. He mentioned the experience as medical shop keeper. Experience certificate issued himself	4.1.13.4, 5.3.14	328 TO 341	81 TO 85
R 12	Jawed Hussain Shaikh	No relevant document produced at the time of interview. Despite direction on interview call letter. Trainee experience	5.3.24, 6.14.1	569 TO 581	86 TO 104
R 16	Swati Sudhakar Bharde	Not relevant experience, Trainee	4.1.13.4, 5.3.14	352 TO 360	
R 17	Monika Arun Mohod	Not relevant experience, Trainee	4.1.13.4, 5.3.14	361 TO 370	
R 26	Madhav Jagannath Nimse	Less experience, Stipened basis experience not considered (*Govt. Scrutiny report)	4.1.13.4, 6.14.1		60 TO 70
R 27	Atish Shivaji Sarkale	No relevant experience, Govt. Scrutiny report on page no 673 to 675	6.14.1	673 TO 675	
R 29	Pravin Haridas Raut	No relevant experience			71 to 80
R 36	Satish H. Chavan	Non Creamy layer Certificate has not submitted. Submitted afterward. No relevant experience. *Govt. Scrutiny report on page no 651	5.3.25	514 TO 521 & 651	
R 37	Rohit s. Rathod	Not eligible, on the day of advertisement. No relevant experience. Less Experience mentioned in applicaiton 2 years	6.3.1, 4.1.13.5, 5.3.14, 4.1.13.4	297 TO 304 & 662	

		6 months, Suppress the Trainee experience. *Govt. Scrutiny report on page no 662			
R 39	Sachin Ashok Kamble	Not eligible, no relevant document submitted. Despite direction on interview call letter	4.1.13.2, 4.1.13.5, 4.1.13.6, 4.1.13.7, 5.3.24	501 TO 513	
R 40	Manoj Nandkumar Ayya	No relevant experience. Certificate doesn't match to experience *Govt. Scrutiny report on page no 650, On interview dated 17/07/2009 Absent page no 707	4.1.13.4, 5.3.14 & 4.3.12.2	402 TO 414 & 650 & 707	

CANDIDATES SUBMITTED NCL CERTIFICATE THOUGH HIGHER INCOME

Resp. No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C. Exhibit-Page 114 to 124	Documents Page No in Writ Petition
R 9	Abasaheb A. Raskar	Excess income, no sufficient charges paid for application form, fals information given about NCL certificate	5.3.16, 5.3.27, 6.14.1	455 TO 465

VACANT POSTS, PARTICULARS OF CANDIDATES TERMINATED, RESIGNED, NOT JOINED THE POST

Sr. No.	Resp. No.	Name of Candidate	Ineligibility Point	Rule of M.P.S.C. (Page 114 to 124)	Remark	Documents Page No in Writ Petition
1	R71	Nitin Shankarrao Devare	Forge documents submitted. No relevant experience. *Govt. Scrutiny report on page no 656, 680-682	6.14.1, 6.14.12 & 4.3.12.8	Terminated from the post of Assi. Commissioner due to forged document	280 TO 295, 656 & 680 TO 682
2	R70	Rupesh Ashrath Whatkar	Forge documents submitted. No relevant experience. *Govt. Scrutiny report on page no 667	6.14.1, 6.14.2.12 & 4.3.12.7	Terminated from the post due to forged document	667
3	R66	Madhuri Balkrushna Sali	Not eligibl, Less experience	4.1.13.4, 5.3.14	Resigned from the post	385 TO 393
4	R67	Sujit Rangnath Bhadke	Excess income, Non creamy layer Certificate has submitted	5.3.16, 5.3.27, 6.14.1	Resigned from the post	445 TO 454

5	R68	Pramod Vithalrao Radake	Non Creamy layer Certificate dispute. Not belonging to Non Creamy layer due to higher income. Forge experience certificate produced *Govt. Scrutiny report on page no 657	5.3.16, 6.4.1	Resigned from the post	466 TO 473 & 657
6	R69	Pravin Aanurath Mhaske			Resigned from the post	
7	R72	Mahesh Mahadev Jagtap	No relevant experience, *Govt. Scrutiny report on page no 649	4.1.13.4, 5.3.14 and 4.3.12.2, 6.14.1	Not joined the post	416 TO 421 & 649
8	R73	Satish A. Polshettiwar	Forge documents submitted. No relevant experience. *Govt scrutiny report on page no 661	6.14.1, 6.14.2.12 & 4.3.12.8	Not joined the post	270 TO 279 & 661
9	R74	Ravindra M. Salunke	Not eligible, on the day of advertisement. Experience. Forge experience certificate produced. Not interviewed. *Govt. Scrutiny report on page no 659 to 660, on interview date 29/07/2009 absent	4.1.13.2, 6.3.1	Appointment not given	342 TO 351, 659 TO 660 & 708
10	R30	Hitesh Babubhai Parmar			Resigned from the post	
11	R75	Prashant M. Warade	Excess income, Non Creamy layer Certificate not attached	5.3.25	Not joined the post	474 TO 481
12	R76	Vivek Dattatraya Choudhari			Resigned from the post	
13	R77	Ramdas Bhagwan Lonkar			Resigned from the post	
14	R78	Sanjali Atmaram			Resigned	

		Desai			from the post	
15	R79	Bhushan Popat Patil			Not joined the post	
16	R80	Pravin Abhiman Jagtap	Fake certificate produced		Not joined	
17	R81	Anil Vilas Chothe			Not joined the post	
18	R82	Abhay Tulshiram Sangamwar			Not joined the post	
19	R83	Rincy Anthony Chelte			Resigned from the post	
20	R15	Shrutika Kamalsing Jadhav	Marathi Language, NCL not submitted	5.3.20, 4.1.14	Recommended twice, not joined general post	422 TO 432
21	R43	Ganesh Ramchandra Rokade			Recommended twice, Not joined SD post	
22	R55	Pravin Dinkar Harak			Recommended twice, Not joined SD post	

32. According to Mr. Swami, learned Counsel for the Intervenors following candidates were ineligible to be appointed either because they did not possess the necessary qualification or has submitted forged documents-

Sr. No.	Name of Candidate	Category	Particulars	Remark
1	Shashikant P. Yadav	SC	Not eligible due to R and D experience	Still on the post
2	Vijay Vithal Nangare	NT D	Not eligible due to R and D experience. NCL not produced at the time of interview	Still on the post
3	Manish V. Gotmare	OBC	Trainee experience, Not eligible due to R and D experience	Still on the post
4	Sunil Gawali	OBC	Not eligible due to R and D experience	Still on the post
5	Prashant Rejendra Ramteke	SC	Not eligible due to R and D experience	Still on the post
6	Prachi Durgasingh	VJ A	Not eligible due to R and	Still on the

	Rathod		D experience	post
7	Shubhangi Sadashiv Bankar	OBC	Not eligible due to R and D experience	Still on the post
8	Punam Raghuvir Pednekar	OBC	Not eligible due to R and D experience	Still on the post
9	Smt. Tazi S. Farahat Abdul Khalil	OPEN	Not eligible due to R and D experience	Still on the post
10	Rajesh Baburao Bankar	SC	Forge Document submitted	Still on the post
11	Ajay Mangalprasad Mahule	NT B	Forge Document submitted	Still on the post
12	Anjali M. Mitkar	OPEN	Trainee experience 1 Year 9 Months experience of F and D, Forge experience certificate submitted	Still on the post
13	Nitin Pandurang Aher	NT C	NCL and experience certificate not produced at the time of interview. Forge experience certificate submitted	Still on the post
14	Jeevan D. Jadhav	OBC	No relevant document produced at the time of interview. Forge experience certificate produced	Still on the post
15	Suhas Tanaji Sawant	OPEN	Trainee experience fabricated same certificate deleting "Trainee" hence less experience	Still on the post
16	Mahesh Vinayakrao Deshpande	OPEN	Degree certificate not produced at the time of interview. Forge experience certificate submitted	Still on the post
17	Rakesh Manoharrao Edlawar	NT B	Forge experience certificate submitted	Still on the post
18	Varsha Madhukar Choudhari	OBC	NCL and experience certificate not produced at the time of interview. Forge experience certificate submitted	Still on the post
19	Anil Madhavrao Manikrao	OPEN	Trainee Experience, Hence less experience	Still on the post
20	Mahesh B. Kautikwar	OPEN	No relevant document produced at the time of interview. R and D (F and D) experience, relevant experience 1 year 3 Months and 17 Days	Still on the post
21	Jawed Hussain Shaikh	OPEN	Less Experience, Suppress Trainee experience	Still on the post
22	Swati Sudhakar Bharde	ST	Trainee experience, Less experience	Still on the post
23	Monika Arun Mohod	OBC	Trainee experience, Less experience	Still on the post
24	Madhav Jagannath Nimse	OPEN	Suppressed Trainee experience	Still on the post
25	Atish Shivaji Sarkate	OBC	Less Experience	Still on the

				post
26	Pravin Haridas Raut	OBC	No relevant experience	Still on the post
27	Satish H. Chavan	VJ A	No relevant experience	Still on the post
28	Sachin Ashok Kamble	SC	No relevant document produced at the time of interview, experience overlap during education	Still on the post
29	Manoj Nandkumar Ayya	OPEN	Trainee experience, Less Experience, Absent for scheduled interview	Still on the post
30	Abasaheb A. Raskar	OBC	Higher Income irrespectively NCL certificate	Still on the post

33. According to the learned counsel for the selected and the appointed candidates, the said lists are incorrect. The lists submitted by the Counsel for the Intervenors and the Petitioners are incorrect. The selected candidates possess the necessary experience, qualification and are supported by genuine documents. There are many candidates who had refused to accept the appointment orders and tendered resignation. They are 28 in numbers. After the 4 Member Committee submitted Enquiry Report dated 09.01.2012, subsequently, Re-verification Report of the 4 Members Committee is also submitted. It clarified about the selected candidates possessing the necessary qualification and experience. One such report of the re-verification Committee is in

respect of One Manoj Nandkumar Ayya and another. The entire report after re-verification is not on record.

34. Miss Talekar, the learned Counsel has given clarification in respect of some of the candidates. The same is as under-

Sr. NO.	Objections by the petitioner	Explanation																				
Mahesh Baljairao Kawatkar (Respondent No. 10)																						
1	The Respondent No. 10 does not possess the requisite experience in manufacturing and drug testing. The documents in respect of his own medical shop cannot be considered against the requisite experience.	The petitioner possesses 3 and 1/2 years of experience in manufacturing and testing apart from running his own medical shop, details of which are as under: <table><tr><th>Sr . No .</th><th>Name of the Company</th><th>From</th><th>To</th><th>Total period (Y/M/D)</th></tr><tr><td>1</td><td>Maneesh Pharmaceutic als Ltd., Mumbai</td><td>29.09.1999</td><td>16.01.2001</td><td>01/10/15</td></tr><tr><td>2</td><td>Kopran Ltd., Savroli</td><td>17.01.2001</td><td>29.01.2002</td><td>01/03/17</td></tr><tr><td colspan="2">Total Experience</td><td colspan="3">03 years 02 months 02 days</td></tr></table> The respondent No. 10 had furnished the necessary documents in suport of his experience in manufacturing and drug testing as aforesaid, at the time of interview itself. However, the petitiner knowingly did not place on record the documents in respect of his service of the respondent No. 10 at Kopran Ltd., Savroli with a view to mislead this Hon'ble Court. Copy of the experience certiicate in respect of Kopran Ltd., Savroli submitted to the MPSC along with his application is annexed herewith and marked at Exhibit "PA-1". Moreover, the Medical Education and Drugs Department, had constituted a Committee for examining the experience of the candidates who had applied for the post of the Drugs Inspector pursuant to various complaints received by it. The said Committee after holding due verification had categorically held that the respondent No. 10 possessed the necessary experience. (See p. 824 of the Writ Petition No. 1218/2013)	Sr . No .	Name of the Company	From	To	Total period (Y/M/D)	1	Maneesh Pharmaceutic als Ltd., Mumbai	29.09.1999	16.01.2001	01/10/15	2	Kopran Ltd., Savroli	17.01.2001	29.01.2002	01/03/17	Total Experience		03 years 02 months 02 days		
Sr . No .	Name of the Company	From	To	Total period (Y/M/D)																		
1	Maneesh Pharmaceutic als Ltd., Mumbai	29.09.1999	16.01.2001	01/10/15																		
2	Kopran Ltd., Savroli	17.01.2001	29.01.2002	01/03/17																		
Total Experience		03 years 02 months 02 days																				
2	The experience certificate issued by Maneesh	The final mark sheet, although issued on 13.01.2000, was in respect of the examination																				

	Pharmaceuticals Ltd. submitted by the respondent NO. 10 is bogus and fabricated inasmuch as he was pursuing full-time M.Pharm course at the relevant time. The petitioner relies on the marksheet dated 13.01.2000 issued by the TamilNadu Dr. MGR Medical University, Chennai in support of his allegation.	held in September, 1999. Thus, the respondent No. 10 had completed his full time course of M.Pharm in the month of September, 1999 and had joined the Maneesh Pharmaceuticals Ltd., Mumbai immediately thereafter i.e. on 29.09.1999. As a matter of fact, the curriculum of the full-time M.Pharm course of respondent No. 10 had come to an end on submission of his dissertation on 24.08.1999 itself. The reliance on the said marksheet of the respondent No. 10 to establish that he was pursuing a full-time course during the period between 1999 to 2001, therefore, is fallacious and incorrect. Copy of the certificate of Principal endorsing the acceptance of Dissertation project on 24.08.1999 is annexed herewith and marked at Exhibit "PA-2" .
Suhas Tanaji Sawant-Respondent No.22		
3	The respondent No. 22 was working as a trainee (i.e. on stipend) and therefore, his experience against the said post cannot be counted as per Rule 4.1.13.4 of the Rules of MPSC	The respondent No. 22 was working on the post of "Trainee Officer – Quality Assurance" which is a full-time post in the establishment of M.J. Biopharm Pvt. Ltd. The respondent No. 22 was not workign on a sitpend basis but was receiving complete salary including allowance during the period of his appointment as a full-time employee which is evident from his appointment order. Moreover, the R. 22 was issued an ID card bearing Employee Code "0399". Copies of the appointment letter dated 08.03.2005 showing that R No. 22 was working on the post of "Trainee Officer-Quality Assurance" on full-time basis with salary, the passbook showing the receipt of the salary by the respondent No. 22 during the period of his employment and the employee ID card are annexed herewith and marked at Exhibit "PA-3" collectively. Moreover, the Medical Education and Drugs Department, had constituted a Committee for examinig the experience of the candidates who had applied for the pot ofthe Drugs Inspector pursuant to various complaints received by it. The said Committee after holding due verification had categorically held that the respondent No. 22 possessed the necessary experience (See p. 824 of the Writ Petition No. 1218/2013)
4	The respondent No. 22 indulged in fabricating the documents inasmuch as the outward numbers of two different experience certificates submitted by him were the same.	The outward numbers of both the experience certificates are not same: Document at p. 324 of WP No. 13920 of 2019 bears outward No. MJB/TRO/SS/005/06 whereas that at p. 326 bears MJB/O/SS/005/06 which are different from each other.
Natin Pandurang Aher-Respondent No. 19		
5	No relevant document produced at the time of interview despite mandated in the call letter.	Respondent No. 19 due to oversight had not carried the requisite documents at the time of interview. However, the Respondent No. 19 had submitted the documents within 24 hours as directed by the MPSC. Thus, there is no force in the argument that Respondent No. 19 did not submit the documents at the time of interview. Also, it is no body's contention that this relaxation of submitting documents within 24 hours of the interview was not granted to them and granted to others. The MPSC in fact had

		grante this relaxation to all candidates.								
6	The Committee constituted by the Government observed that the experience certificate submitted by Respondent No. 19 were forged.	The Committee appointed by the Government had verified the documents by visiting the Department of Formulation and Development whereas Respondent No. 19 was working in the Department of Production. Immediately after perusal othe report, the Respondent No. 19 submitted an explanation to the Medical Education and Drugs Department with relevant documents which was again placed before the said Committee. The said Committee once again caused verification of he experience of the Respondent No. 19 and informed the Secretary, Medical Education and Drugs Department that the same was found to be true and correct vide communcaiton dated 06.03.2012. Accordingly, the R. 19 was given an appointment order on 14.03.2012. The report relied on by the petitioner holds no good, in the light of the subsequent report submitted by the Committee. Copies of the documents obtaind under RTI regarding the subsequent verification report submitted by the Committee and the appointment order are annexed herewith and marked at <u>Exhibit "PA-4" collectively.</u>								
Smt. Swati Sudhakar Bharde (Lokhande) – Respondent No. 16										
7	Respondent No. 16 does not possess the requisite experience	The Respondent No. 16 worked on the post of Trainee Supervisor-Production which is a full time post on the establishment of Unijules Life Science Ltd., Nagpur. The Responded No. 16 was a full time employee and was paid a full-fledged salary including allowances. Moreover, the services of the R-16 were approved by the Department of Food and Drugs Administration. Copies of the documents in support of the experience of the respondent No. 16 and the order granting approval to her service are annexed Herewith and marked as <u>Exhibit "PA-5" collectively.</u> Moreover, the Medical Education and Drug Department has constituted a Committee for examining the experience of candidates who have applied for the post of Drugs Inspector pursuant to various complaints received by it. The said committee after holding due verification has categorically held that the R-16 possessed the necessary experience (See P-825[Sr.No.16] of the Writ Petition No.1218/2013).								
Monica Vinod Dhawad alias Monica Arun Mohod-Respondent No. 17										
		The respondent No. 17 possesses 3.8 years of experience in manufacturing and testing the details of which are as under: <table><tr><th>Sr. No.</th><th>Name of Company</th><th>From</th><th>Total period (Y/M/D)</th></tr><tr><td>1</td><td>Kaplin Pharmace uticals</td><td>Nov. 2004 to June 2008</td><td>3.8 years</td></tr></table> The Petitioner has worked for the period between November 2004 to June, 2005 as Assistant Production-Trainee which was a full time post receiving full-fledged salary. After completion of the training perod, the petitioner was continued as Assistant Production Chemist, which again is a full-time post with aprescribed pay-scale. The	Sr. No.	Name of Company	From	Total period (Y/M/D)	1	Kaplin Pharmace uticals	Nov. 2004 to June 2008	3.8 years
Sr. No.	Name of Company	From	Total period (Y/M/D)							
1	Kaplin Pharmace uticals	Nov. 2004 to June 2008	3.8 years							

		petitioner had furnished the necessary documents in support of his experience in manufacturing as aforesaid, at the time of interview.			
		Moreover the Medical Education and Drugs Department has constituted a Committee for examining the experience of the candidates who had applied for the post of Drugs Inspector pursuant to various complaints received by it. The said Committee after holding due verification had categorically held that the Respondent No. 17 possessed the necessary experience (See p. 824 & 825 of the Writ Petition No. 1218/2013) <u>Exhibit "PA-6" collectively.</u>			
Sachin Ashok Kamble (Respondent No.39)					
The application of Sachin Ashok Kamble is required to be rejected by the M.P.S.C. for the post of Drug Inspector, as such, he has violated the rule 4.1.13.2, 4.1.13.5, 4.1.13.6, 4.1.13.7 and 5.3.24 mentioned in brochure. Mr. Kamble has not produced the experience certificate at the time of interview though it is specifically directed on interview call letter.	Mr. Sachin Ashok Kamble possesses following experience and the same was mentioned in the MPSC application as well as at the time of interview.				
	Sr. No.	Name of the Company	From	To (As on the date of interview)	Total period (Y/M/D)
	1	Biocon India Ltd., Bangalore	15.01. 2005	14.10.2010	5 years and 10 months
	2	FRLHT, Yelahanka, Bangalore	04/08/ 2003	29/12/2004	17 months (1.5 yrs)
	Total Experience as on date of Interview		About 7 years approximate		
The respondent No.39 had produced the experience certificate, however, not in the prescribed format. The respondent No.39 therefore, had sought time from the Committee of Interviews for submission of the experience certificate in the rpescribed format. Accordingly, the respondent No.39 had submitted the experience certificate in the requisite format within a perid of 7 days on 21.10.2010, as permitted by the Committee of Interviews, through email as well as in person. Moreover, the Medical Education and Drug Department has constituted a Committee for examining the experience of candiates who have applied for the post of Drugs Inspector pursuant to various complaints received by it. The said committee after holding due verification has categorically held that the R-39 possessed the necessary experience (See P-825 [Sr.No.16] of the Writ Petition No. 1218/2013). Copies of the experience certificate along with the email sent by the applicant is annexed herewith and marked at Exhibit"PA-7" collectively.					
Vijay Vitthal Nangare-Respondent No. 18					
The Respondent No. 18 not eligible due to R & D experience.	The Respondent No. 18 has furnished the necessary documents regarding his experience in manufacturing and testing of drugs at the time of interview. In advertisement No. 020/2008 dated 11/02/2008, at point No. 5.2 it				

		was mentioned that "Preference may be given to candidates having a postgraduate degree in subject mentioned in sub-clause 5.1.1 above or research experience in the synthesis and testing of drugs". The Medical Education and Drugs Department, had constituted a Committee for examining the experience of the candidates who had applied for the post of the Drugs Inspector pursuant to various complaints received by it. The said Committee after holding due verification had categorically held that the respondent No. 18 possessed the necessary experience. Copies of the documents obtained under RTI regarding the subsequent verification report submitted by the Committee and the confirmation order are annexed herewith and marked at <u>Exhibit "PA-8" collectively.</u>
	Phot not affixed	The Respondent No. 18 has submitted duly filled application form (with affixed photograph) vide Sr. No. DR 0082778 at Asst. Post Master office, Thane on 10/03/2008 and acknowledgement was obtained. As mentioned in point 2.4.5 of MPSC prospectus, duly filled application form (with affixed photograph) was submitted in Post Office and then only acknowledgement was obtained. Copy of this acknowledgement is annexed herewith and marked at <u>Exhibit "PA-9" collectively.</u>
	Non Creamy Layer Certificate has not submitted Higher Income	The Respondent No. 18 has submitted the Non Creamy Layer Certificate dated 08/03/2008 at the time of interview duly issued by the Sub Divisional Office (Revenue), Phaltan, Sub Dn. Phaltan, Dist. Satara (See p. 681 of the Writ Petition No. 1218/2013). Thus, there is no force in the argument that Respondent No. 18 did not submit the Non Creamy Layer Certificate. Copy of Government Resolution (Government of Maharashtra) No. CBC10/2006/122/MVK-5 dated 20/10/2006 and No. CBC10/2004/687/MVK-5 29/10/2004 is submitted for eligibility of Non Creamy Layer. Copy of "Clarifications regarding creamy layer amongst OBCs" from Government of India, Ministry of Personnel, Public Grievance & Pensions, Department of Personnel & Training dated 14/10/2004 is submitted for information. As mentioned in point no. 8 of these Clarifications, the creamy layer status of a candidate is determined on the basis of the status of his parents and not on the basis of his own status or income. It is further clarified that, while determining the creamy layer status of a person the status or the income of the candidate himself shall not be taken into account.
Rakesh Manohar Edalwar respondent No. 32		
		Pursuant to the objections raised by the Scrutiny Committee formed by the Government, the respondent No. 32 had preferred a representation along with the necessary documents including an experience certificate issued by the Chief Operating Officer of the Company as well as the explanation of the concerned officer who had issued the earlier experience certificate to the Committee. The said Committee is reconsidering its decision whereas the final decision is yet to be taken. The services of the respondent No. 32 is yet

		to be confirmed and is subject to the decision in the aforesaid proceedings. Copies of the documents submitted to the Committee as well as the response received under RTI stating that the final decision of the Committee is yet to be taken are annexed herewith and marked at <u>Exhibit "PA-10" collectively.</u>
Anjali M. Mitkar Respondent No.13		
		The respondent No. 13 worked as Quality Assurance Officer in Ajantha Pharma, Chikalthana MIDC/Paithan, Aurangabad. She was receiving regular salary and allowances as Quality Assurance officer and therefore, the services rendered by her as a Quality Assurance Officer in Ajantha Pharma, Chikalthana, Aurangabad need to be treated as regular service. Copies of statement of payment from April 2004 to December, 2004 and increment letter issued by Ajantha Pharma, Chikalthana are annexed herewith and marked at Exhibit " ". The Medical Education and Drugs Department, had constituted a Committee for examining the experience of the candidates who had applied for the post of the Drugs Inspector pursuant to various complaints received by it. The said Committee after holding due verification had categorically held that the respondent No. 13 possessed the necessary experience. The services of the respondent No. 13 is confirmed vide order dated 25.07.2019 and 13.08.2019, copies of which are annexed herewith and marked at <u>Exhibit "PA-11" collectively.</u>
Satish H. Chavan Respondent No. 36		
		The Respondent No. 36 has submitted the Non Creamy Layer Certificate dated 24.07.2009 at the time of interview duly issued by the Sub Divisional Officer (Revenue), Dharwa, Dist. Yawatmal. Thus, there is no force in the argument that Respondent No. 18 did not submit the Non Creamy Layer Certificate. The services of the respondent No.36 is confirmed vide order dated 02.03.2021, copies of which are annexed herewith and marked at <u>Exhibit "PA-12" collectively.</u>
		Explanation of respondent Nos.20, 24 and 25 alongwith chart and documents are annexed herewith and marked at <u>EXHIBITS- "PA-13", "PA-14" AND "PA-15" respectively.</u>

35. The Petitioners it appears are relying on the Report of the 4 Member Committee whereas the selected candidates are relying on the Report of the 4 Member Committee after re-verification as alleged. The MPSC has refuted the allegation of

the Petitioners in writ Petition No. 1218 of 2013 and Writ Petition No. 13920 of 2019 that some of the candidates named in the memo of Petition were not interviewed or candidates getting less marks were selected.

36. It would not be possible in the writ jurisdiction under Article 226 of the Constitution of India to enter into the rigmarole of the disputed facts.

37. The MPSC shall re-verify the entire documents of selected and appointed candidates. The Respondents have refuted the contention of the Petitioners. Upon re-verification if it is found that the candidates appointed did not possess the necessary experience or had submitted forged documents then shall take steps against them. Upon reverifying the documents and records if the Respondent / Authority arrives at conclusion that some of the candidates were not eligible to be appointed shall take appropriate steps against them. If the posts advertised under advertisements

dated 21.12.2007, 11.02.2008 and 29.07.2008 due to non joining of selected candidates are vacant or if some of the candidates appointed, upon reverification of their documents are found to be not possessing necessary qualification or eligibility then on said post the MPSC / State Government may consider the petitioners or persons from the wait list of said advertisements for said posts of course in conformity with the eligibility, qualification and upon considering the category or reservation they had applied. Said exercise shall be done preferably within four (04) months.

38. The Writ Petitions are accordingly disposed of. No costs.

39. In view of disposal of the Writ Petitions, all the Civil Applications stand disposed of.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]