

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

WRIT PETITION NO. 927 OF 2022

Pratap Rajaram Shinde and Ors.	}	Petitioner
versus		
The Secretary, the Maharashtra	}	
Public Service Commission	}	
and Anr.	}	Respondents

Mr. Sandeep Dere for the petitioner.

Mr. M. M. Pable-AGP for State.

**CORAM: DIPANKAR DATTA, CJ &
V. G. BISHT, J.**

DATE : FEBRUARY 2, 2022

P.C.:

1. The petitioners are aggrieved because the Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short), while hearing their original application (Original Application No. 551 of 2021), has refused to grant interim relief by its order dated 25th November 2021.
2. The petitioners are aspirants for the post of Police Sub-Inspector and participated in the selection process conducted for the year 2019 by the Maharashtra Public Service Commission (hereafter "the Commission", for short). It is claimed by them in the original application that although they succeeded in the written examination, they have not been called to participate in the physical test.

3. The Tribunal while making the order under challenge noticed the extant rules of the Commission requiring that the number of candidates to be called for physical test has to be maintained in the ratio of 1 (vacancy) : 4 (candidates in order of merit) and recorded that since the petitioners did not meet such requirement, they were rightly not called for the physical test. However, the petitioners, by referring to facts and figures of selection process conducted previously, sought to contend that many of the candidates who are called for physical test remain absent and in such view of the matter, the ratio is hardly maintained for which the petitioners should also be given an opportunity to appear at the physical test scheduled to be conducted on 3rd February 2022, subject to result of the original application. The Tribunal recorded that the original application was instituted on guess-work and not on hard facts and figures; it therefore proceeded to refuse interim relief.

4. Obviously, without the physical test being actually conducted, none can conclusively say as to how many of the candidates who were called to attend stayed away from such test. We find no infirmity in the order of the Tribunal.

5. We also find from the order under challenge that the Tribunal, in the absence of the relevant facts and figures has directed the Commission to place before it how many candidates remained absent for the physical test so as to enable it consider such aspect and make appropriate final order on the original application as would be warranted on fact and in the circumstances. The approach of the Tribunal, thus, does not suffer from any error warranting interference.

6. We uphold the order of the Tribunal dated 25th November 2021. The writ petition, being devoid of merit, stands dismissed. There shall be no order as to costs.

7. We are informed by Mr. Dere, learned advocate for the petitioners that the Tribunal has now fixed 5th April 2022 as the date for further consideration of the original application. It is also submitted that the pleadings are complete. If indeed that be so, we request the Tribunal to make an earnest endeavour to decide the original application in accordance with law as early as possible.

SALUNKE
J V

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(V. G. BISHT, J.)

(CHIEF JUSTICE)