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

WRIT PETITION NO. 445 OF 2023

**Maharashtra Public Service
Commission, Thr. Secretary**

.. Petitioner

Vs.

Kisan Narshi Tadv

.. Respondent

Mr. Ashutosh M. Kulkarni a/w Mr. Akshay Kulkarni for petitioner.

Mr. Sandeep Dere a/w Ms. Pooja Mankoji for respondent.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: JANUARY 16, 2023

P.C.:

1. The present respondent had filled in application pursuant to the advertisement for the State Civil Services Exam from sports category. The form was filled in on 30th March, 2022. In the form that was to be filled in, one of the columns was 'Domicile Details'. The respondent had typed 'No' as against Maharashtra Domicile Certificate. The respondent was held ineligible. He filed original application bearing No. 1165 of 2022 before the Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short). The Tribunal disposed of the original application by allowing the applicant (respondent herein) to fill up the form for State Service Main Examination with correct information qua Domicile and is further permitted to appear for the Main Examination pursuant to the advertisement dated 19th September, 2022. The petitioner/MPSC has challenged the said order in the present writ petition.

2. Mr. Kulkarni, learned advocate for the MPSC strenuously contends that as per Clause 1.2.5.6 of the instructions issued to the candidates, the respondent could not have changed the profile. The respondent was entitled to correct the information by submitting a fresh application and could not have made corrections in the same application as per Clause 1.2.8 of the instructions. The time to submit the fresh application was extended upto 26th June, 2022. The respondent had filled in the form on 30th May, 2022. On 1st June, 2022 the respondent changed his profile. The respondent on the said date could have submitted the fresh application form and could have corrected the mistake committed by him in the application filed on 30th May, 2022. The Tribunal could not have allowed the original application. The same would be against the mandate of Clause 1.2.5.6 of the instructions issued to the candidates. To substantiate his contention, the learned advocate relies on the decision of the Apex Court in the case of ***State of Tamil Nadu & Ors. vs. G. Hemalathaa & Anr.***, reported in AIR OnLine 2019 SC 969.

3. The learned advocate for the respondent submits that the profile was corrected on 1st June, 2022 and the necessary details of the Domicile Certificate were mentioned. The Tribunal has appreciated the facts on record properly.

4. In the case of ***G. Hemalathaa & Anr.*** (supra), the candidate therein had underlined the answer-sheet with pencil at several places in Law Paper-1. The High Court was also of the opinion that such marking was in clear violation of Instruction 22 (1)(II) of the instructions issued by the Commission which prohibited candidates from using a pencil for any purpose. In that context the Apex Court observed that the instructions have to be followed and strictly adhered to. The discretion exercised by the High Court was in the teeth of the instructions which are binding on the candidates appearing for the examination.

5. In the present case, the only mistake that the candidate had committed was that in the Maharashtra Domicile Certificate column he had typed 'No'. The said application was filled in on 30th May, 2022. It is not disputed by the petitioner that the candidate could have corrected his profile and on 1st June, 2022 the present respondent gave his profile and gave the Domicile details in the same. The said profile given by the respondent and updated on 1st June, 2022, as reproduced by the Tribunal, reads thus: -

"Domicile Details	
Maharashtra Domicile	
Certificate? Yes,	Issuing District Nandurbar
Domicile Certificate	
No Available	Certificate Number 39501055795
Domicile Issue Date 17/01/2017"	

6. It is also not disputed that as per Instruction 1.2.8 if the candidate has committed some mistakes in the uploaded application form, he could have cancelled the said application and could have uploaded a fresh one upto 26th June, 2022. The respondent herein on 1st June, 2022 itself given the details of the Domicile Certificate available with him. The Domicile Certificate was already issued on 17th January, 2017. The certificate number was also mentioned.

7. When the candidate is allowed to correct the mistake by submitting fresh application and that too upto 26th June, 2022, there is no reason why the fresh profile given on 1st June, 2022 giving details of the Domicile Certificate could not be accepted.

8. It would be too technical to hold that a candidate could have cancelled the application form wherein mistake was committed and could have submitted the fresh application on or before 26th June, 2022 but could not have corrected the profile on 1st June, 2022.

9. The Tribunal has exercised the discretion in a reasonable manner.

10. In light of that, no interference is called for. The writ petition is dismissed. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)