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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9458 OF 2024**

Ujwala Ganpat Shinde

..... Petitioner.

V/s

State of Maharashtra and Ors.

.....Respondents

**WITH
WRIT PETITION NO.9319 OF 2024
(Not on board. Taken on production board)**

Sonali Maruti Patil

.... Petitioner.

V/s

The State of Maharashtra and Ors.

.... Respondents.

Mr. Ashish S. Gaikwad with Ms. Savita A. Gaikwad, Ms. Bhavana R. Khichi, Ms. Anjali S. Kolapkar, Mr. Anirudh R. Rote, Advocates for the petitioner in Writ Petition No.9458 of 2024.

Mr. Sandeep Dere a/w Ms. Arati Patil-Dere, Ms. Sonali Pawar, Advocates for the petitioner in Writ Petition No.9319 of 2024.

Mr. B.V. Samant, Addl. GP a/w Mrs. Reena A. Salunkhe, AGP for respondents-State.

**CORAM: A.S. CHANDURKAR &
RAJESH S. PATIL, JJ.**

DATE: 12th July, 2024.

P.C.:-

1] The challenge raised in these writ petitions is to the common judgment of the Maharashtra Administrative Tribunal dated 28/06/2024 passed in Original Application No.738 of 2024 and 746 of 2024. In Writ Petition No.9319 of 2024, the petitioner is aggrieved by the order passed in Original Application No.738 of 2024 while the

petitioner in Writ Petition No.9458 of 2024 is aggrieved by the order passed in Original Application No.746 of 2024.

2] Pursuant to an advertisement dated 11/07/2023 with regard to recruitment to various posts under the Maharashtra Municipal Council State Service Group-C, the petitioner in Writ Petition No. 9319 of 2024 submitted an application. She sought to take benefit of reservation in the Economically Weaker Section. She however declined reservation as a woman candidate. The petitioner submitted her form online on 20/08/2023. On 05/03/2024, the Selection Committee published the list indicating marks secured by the candidates in the examination conducted. It was stated that social and other horizontal reservations would be subsequently considered and that the Select List would be thereafter published. On 06/03/2024, the petitioner moved a representation stating therein that inadvertently in her application form she had stated that she did not desire to seek benefit of reservation as a woman. She desired to rectify that defect and hence made such request. Subsequently, the Provisional List was published on 10/06/2024 after which the petitioner filed Original Application No.738 of 2024 before the Tribunal.

3] The petitioner in Writ Petition No. 9458 of 2024 also applied for a post pursuant to the recruitment under the Maharashtra Municipal Audit and Accounts Service Group-C. In her application form she claimed benefit of reservation in the OBC Category but did not claim benefit of reservation as a woman. After publication of the provisional

results, she made representation on 11/06/2024 in which she stated that in view of an error in the system, though she had claimed benefit of reservation as a woman, it was shown in the negative in her application. She filed Original Application No.746 of 2024 after the Provisional Select List was published.

4] The Tribunal heard both the Original Applications together and found that both the petitioners had duly filled-in their application forms but had declined to avail the benefit of Women's reservation. It was only after publication of the Provisional Merit List that they moved their representations stating therein that they desired to seek benefit of Women's reservation. The Tribunal found that the recruitment process had progressed and it had reached the stage of verification of documents. It therefore declined to grant any relief to the petitioners in view of the fact that no change could be made in the online application once submitted. Being aggrieved, the petitioners have approached this Court.

5] Mr. Sandeep Dere, the learned counsel appearing for the petitioner in Writ Petition No.9319 of 2024 and Mr. Ashish Gaikwad, the learned counsel appearing for the petitioner in Writ Petition No. 9458 of 2024 urged that the bonafide mistake in not seeking benefit of Women's reservation ought to be permitted to be rectified. Since both the petitioners were females, it was obvious that they were eligible to seek benefit of reservation being women. Reliance was placed on the provisions of Article 15(3) of the Constitution of India and it was urged

that depriving them of seeking such benefit would violate the fundamental rights of the petitioners. On the basis of the cut off marks prescribed, it was clear that both the petitioners were eligible to be selected on the basis of reservation in the Women's category. There was no question of any delay in approaching the Tribunal especially when the petitioners had made their representations on 06/03/2024 and 11/06/2024 respectively. No other candidate would be affected as the final list was yet to be published and the stage of verification of documents was in process. To substantiate their contentions reliance was placed on the judgment of Delhi High Court in *Ajay Kumar Mishra vs. Union of India & Ors*, (2016) 160 DRJ 601, on the judgment of Supreme Court in *State of Uttar Pradesh and Others vs. Arvind Kumar Srivastava and others*, (2015) 1 SCC 347 and on the judgment of the Division Bench of this Court (Bench at Aurangabad) delivered in Writ Petition No.393 of 2016 (*Mrs. Patil Vijaya Milind vs. The State of Maharashtra and Ors.*) decided on 22/01/2016. It was thus submitted that the Tribunal was not justified in taking a hyper technical view and refusing to grant relief to the petitioners. It was thus prayed that the writ petitions be allowed.

6] Mr. B.V. Samant, the learned Additional Government Pleader supported the judgment of the Tribunal. According to him, the Tribunal rightly did not accept the stand of the petitioners that they had committed any mistake in submitting their application forms. Both the petitioners had submitted their application forms on 20/08/2023 and 15/07/2023 respectively. It was only after the Provisional Select

List was published on 05/03/2024 that the petitioners had come up with a stand of having committed a mistake. Any interference at this stage would definitely prejudice those candidates who had sought benefit of reservation in the Women's category. Those candidates had not been impleaded despite being necessary parties. The Tribunal rightly found that the Petitioners had belatedly approached the Court as the recruitment process had progressed. No relief therefore could be granted to the petitioners.

7] We have heard the learned counsel for the parties and we have perused the documents on record. It is not in dispute that the petitioners while submitting their application forms on 20/08/2023 and 15/07/2023 respectively did not seek benefit of Women's reservation. It is only after the Provisional Select List was published on 10/06/2024 that the petitioners have sought to raise a grievance. The petitioners have not explained as to when they became aware of the fact that they had committed a mistake while submitting their forms. The stand of the respondents that only after noticing their placement in the Provisional Merit List on 05/03/2024 did the petitioners take a chance of seeking rectification cannot be brushed aside. Clause 1.4.4 of the advertisement dated 11/07/2023 does not permit any change or correction to be made after submission of the online application form. The Tribunal therefore was justified in refusing to accept that contention especially when the process of recruitment had reached the stage of verification of documents. Similarly permitting the petitioners to seek benefit of reservation as women would definitely prejudice

other candidates who had sought such benefit of reservation. Said candidates are not before the Court. We therefore find that the Tribunal after considering all these aspects declined to grant any relief to the petitioners. It is also to be noted that in the representation dated 11/06/2024 made by the petitioner in Writ Petition No.9458 of 2024, she has stated that on account of an error in the system it was shown that the petitioner did not seek benefit of reservation as a woman. However in paragraph 7 of the writ petition it is pleaded that while filling in the online form, a mistake was committed by the petitioner through oversight. Thus, the stand taken in the representation is different from the one taken in paragraph 7.

8] In aforesaid facts therefore we do not find that Tribunal had committed any jurisdictional error in denying relief to the petitioners. There is no violation of the provisions of Article 15(3) of the Constitution of India inasmuch as the petitioners' candidature continues. It is only that benefit of reservation as women which was required to be specifically claimed would not be available. In these facts, the decisions relied upon do not further the case of the petitioners.

9] In that view of the matter, we are not inclined to interfere in exercise of writ jurisdiction. The writ petitions are therefore dismissed with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]