

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

WRIT PETITION NO.9866 OF 2024

- | | |
|---|------------------|
| 1. Anil Ratan Rathod |] |
| 2. Bhagwan Krishna Redekar |] |
| 3. Pranali R. Munganekar |] |
| 4. Amruta Shivaji Patil |] |
| 5. Datta Dinkar Chavan |] |
| 6. Pandurang Vikas Nirmal |] |
| 7. Sangamnath Nagorao Kangare |] |
| 8. Manesh Kedarnath Chaure |] |
| 9. Shankar Madhukar Satpute |] |
| 10. Pravin Pandurang Gore |] |
| 11. Ganesh Dnyandeo Lokhande |] |
| 12. Ketan Kishor Shende |] |
| 13. Sunil Kisan Gavhane |] |
| 14. Roshan Anandrao Kenjale |] |
| 15. Dhanaji Subrao Patil |] |
| 16. Dipak Rustam Mhaske |] |
| 17. Namdeo Gorakhanath More |] |
| 18. Dattatray Raosaheb Pandhare |] |
| 19. <i>Nivedita Dileeprao Patil (DELETED)</i> |] |
| 20. Sushilkumar Nagorao Dhepe |] |
| 21. Ashish Avinash Narpache |] |
| 22. Ashwini Shivsharan Mane |] |
| 23. Rutuja Sudhir Mahadeshwar |] |
| 24. Vishwabhar Dagadu Landage |] |
| 25. Mahesh Hanmant Karandkar |] |
| 26. Prasanna Sunil Deshmukh |] |
| 27. Shalini Bhimrao Ghutke |] |
| 28. Ajaykumar Mahadev Kshirsagar |] |
| 29. Hanmant Shankar Mane |] .. Petitioners |

Versus

- | | |
|--|---|
| 1. The State of Maharashtra, |] |
| Through Revenue and Forest Department |] |
| 2. The State Examination Co-ordinator & |] |
| Joint Settlement Commissioner & Additional |] |
| Director, Land Records (Maharashtra State) |] |
| 3. Suyog Krishna Aldar, |] |
| R/of Chembur, Mumbai |] |
| 4. Sudhir Bhatu Patil, |] |
| R/of Amalnar, Dist. Jalgaon |] |

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|----------------------------------|---|----------------|
| 5. Sudarshan Shivaji Bansode, |] | |
| R/of Haveli, Dist. Pune |] | |
| 6. Mahesh Kailas Gadakh, |] | |
| R/of Sangamner, Dist. Ahmednagar |] | .. Respondents |

ALONG WITH

INTERIM APPLICATION NO.12325 OF 2024

- | | | |
|-----------------------------|---|-----------------|
| 1. Akshay Gunwantrao Juware |] | |
| 2. Sanket Mininath Bhujbal |] | |
| 3. Sameer Khan Sardar Khan |] | |
| 4. Diksha Mahadeo Satpute |] | .. Applicants / |
| 5. Dinesh Santosh Raut |] | Intervenors |

ALONG WITH

INTERIM APPLICATION NO.12328 OF 2024

- | | | |
|--|---|-----------------|
| 1. Akib Rahathusen Inamdar |] | |
| 2. Sushant Bhimrao Patil |] | |
| 3. Amit Eknathrao Zade |] | |
| 4. Pragati Vilas Patil |] | |
| 5. Amrita Anandrao Chougale |] | |
| 6. Sanjay Rohidas Gange |] | |
| 7. Pandurang Dnyandev Vanjare |] | |
| 8. Pradeep Prakash Barage |] | |
| 9. Shreeraj Chintamani Sambhare |] | |
| 10. Nikhil Rajan Sonavadekar |] | |
| 11. Komal Bhaurao Dhande |] | |
| 12. Nandkumar Pandurang Dhere |] | |
| 13. Suchita Hemant Masurkar |] | |
| 14. Manojkumar Rajaram Tulaskar |] | |
| 15. Popat Gundu Gurav |] | |
| 16. Savalaram @ Vilas Laxman Dhanawate |] | |
| 17. Vaishali Dilip Desai |] | |
| 18. Anil Appaji Patil |] | |
| 19. Pravin Ganpat Ghadi |] | .. Applicants / |
| 20. Kalelkar Nilesh Prabhakar |] | Intervenors |

Mr. Datta Pawar with Ms. Bhagyashri Mangale and Ms. Sonali Pawar, Advocates for the Petitioners.

Mr. Sandeep Dere with Ms. Arati Patil Dere, Ms. Sonali Pawar and Ms. Pooja Mokashi, Advocates for the Applicants-Intervenors in both the IAs.

Ms. Kavita N. Solunke, Assistant Government Pleader for the Respondent-State of Maharashtra.

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

DATE : 20TH SEPTEMBER 2024

PC. :

1. Heard learned counsel for the parties.
2. The challenge raised in this writ petition is to the order dated 5th July 2024 passed by the learned Members, Maharashtra Administrative Tribunal, Mumbai Bench in Original Application Nos.188 of 2024, 420 of 2024, 478 of 2024, 631 of 2024 and 765 of 2024.
3. The dispute pertains to recruitment on the post of “Talathi” with the Revenue and Forest Department of the State Government. An advertisement dated 6th November 2023 came to be issued seeking to recruit Talathis on 4,793 posts. The Tata Consultancy Services - TCS conducted written examination between 17th August 2023 and 14th September 2023. With regard to the answer key for the questions that were required to be answered in the written examination, objections were permitted to be raised from 29th September 2023 to 8th October 2023. Various objections were received from the candidates, after which the Expert Committee directed correction of some of the questions. After completion of the process of raising objections and consideration of the same, the Merit List came to be published on 5th January 2024. According to the petitioners, in the Final Select List published on 23rd January 2024,

the names of the petitioners were included therein. In the meanwhile, Writ Petition No.1744 of 2024 (*Prasad Ashok Shinde Vs. The State of Maharashtra, through Chief Secretary and Ors.*) was filed at the Aurangabad Bench of the High Court. On 13th February 2024, a direction was issued to consider the objection that was raised by the said petitioner with regard to the question paper. A similar direction was also issued in Original Application No.188 of 2024 by the Maharashtra Administrative Tribunal, Mumbai (*B.T. Durge Vs. The State of Maharashtra and Ors.*). After considering all objections, a Revised Merit List came to be published on 11th March 2024. In these facts, the petitioners filed the aforesaid Original Applications before the Maharashtra Administrative Tribunal raising a challenge to the publication of the Revised Merit List dated 11th March 2024 as well as the Revised Select List dated 14th March 2024.

4. The Tribunal considered the aforesaid Original Applications. It found that though directions were issued in Writ Petition No.1744 of 2024 and Original Application No.188 of 2024 to consider the respective objections raised by the concerned petitioner/applicant, the TCS proceeded to consider all objections and thereafter published the Merit List on the basis of aforesaid. All candidates were treated equally and there was no discrimination whatsoever in that regard. The petitioners had also benefited by receiving similar marks as awarded to other

candidates with regard to incorrect questions. Since nothing illegal was found in this regard, the Tribunal dismissed Original Application Nos.188 of 2024, 420 of 2024, 478 of 2024, 631 of 2024 and 765 of 2024 on 5th July 2024. Being aggrieved, the said judgment is under challenge.

5. Mr. Datta Pawar, learned counsel for the petitioners submitted that the TCS was not justified in considering all objections received even after the cut-off date. The directions issued in Writ Petition No.1744 of 2024 as well as Original Application No.188 of 2024 were with regard to consideration of the objections raised by the respective objectors. There was no reason whatsoever to take into consideration objections received after the cut-off date. As a result of this exercise, about 219 questions were required to be revised. Full marks were given for 180 questions while 39 questions came to be corrected. There was complete lack of transparency in entertaining the objections. This amounted to changing the rules of the game after the same had commenced. This was not permissible in law. The Tribunal failed to consider these aspects and erred in dismissing the Original Application Nos.188 of 2024, 420 of 2024, 478 of 2024, 631 of 2024 and 765 of 2024. As the names of the petitioners figured in the initial Merit List that was published on 5th January 2024, they were prejudiced with the consideration of objections raised belatedly. It was thus submitted that the impugned judgment was liable to be set aside and

the petitioners deserved to be issued appointment orders in accordance with the Merit List dated 5th January 2024.

6. Ms. Kavita Solunke, the learned Assistant Government Pleader for the respondent-State of Maharashtra opposed the writ petition and supported the impugned judgment delivered by the Tribunal. According to her, no illegality was committed by taking into consideration various objections received from candidates before publishing the Revised Merit List. Equal treatment was given to all candidates and it was not demonstrated by the petitioners that by deciding the objections, any illegality had been committed. She relied upon the affidavit-in-reply that was filed before the Tribunal.

7. Mr. Sandeep Dere, the learned counsel for the applicants-intervenors also opposed the writ petition. He submitted that the applicants-intervenors were candidates whose names figured in the Select List and they were entitled to be appointed accordingly. As the applicants-intervenors were more meritorious than the petitioners, they had been duly selected. According to him, the benefit of grant of additional marks was given to all candidates and there was no discrimination whatsoever in that regard. The Examining Authority had cured the mistakes that had been noticed and this did not amount to changing the rules of the game, as alleged. The Tribunal having considered all relevant aspects and as the

petitioners had not been selected as they were less meritorious, there was no case made out to interfere in exercise of writ jurisdiction. It was therefore submitted that the writ petition was liable to be dismissed.

8. We have heard the learned counsel for the parties and we have perused the documents on record. At the outset, it may be stated that the prayer for intervention as made in the Interim Applications Nos.12325 of 2024 and 12328 of 2024 deserves to be granted since the names of the applicants-intervenors figure in the Final Merit List. In case the prayers made in the writ petition are granted, the applicants-intervenors would be adversely affected. Accordingly, Interim Application Nos.12325 of 2024 and 12328 of 2024 are allowed and the applicants-intervenors are permitted to participate in the present proceedings.

9. It is not in dispute that pursuant to the order dated 13th February 2024 in Writ Petition No.1744 of 2024 (*Prasad Ashok Shinde Vs. The State of Maharashtra, through Chief Secretary and Ors.*) passed by the Aurangabad Bench of this Court as well as the order dated 12th February 2024 passed by the Tribunal in Original Application No.188 of 2024, the objections raised by the said petitioner and the applicant, respectively, were directed to be considered. The TCS however considered various other objections also while undertaking the exercise as directed. On completion of that exercise of correction, the Merit List came to be revised

and on the basis of inter se merit of the candidates, their position in the Merit List was indicated. It is true that the objections have been considered after the last date for raising the same which was 8th October 2023. It is however seen that at the end of conducting such exercise, the benefit flowing from the rectification of said mistakes has been uniformly given to all the candidates. At the end of that exercise, the petitioners whose names figured in the Merit List dated 5th January 2024 did not find their names in the Revised Merit List dated 14th March 2024 and consequentially the Select List. It is not the grievance of the petitioners that candidates having lesser merit than them have been shown in the Revised Merit List. The petitioners do not deny that on revision of the question papers, they would not be entitled to be included in the Revised Merit List. The grievance of the petitioners is to the entertaining of objections after the cut-off date.

10. We find that the Tribunal has considered all relevant aspects that were urged by the petitioners in the Original Applications before it. It was found that the TCS had received numerous objections after the cut-off date and it decided to consider all objections received in view of the directions issued in Writ Petition No.1744 of 2024 and Original Application No.188 of 2024. This was with a view to avoid any future litigation and to ensure that meritorious candidates were selected. Though

the period for submission of objections was from 29th September 2023 to 8th October 2023, such objections received thereafter were also considered. The objections raised with regard to 79 questions were found to be correct and hence a decision was taken to correct the mistakes with a view to ensure accuracy and correctness in the evaluation of the questions and answers. The Tribunal did not find anything arbitrary in this exercise especially when benefit of the corrected questions / answers was given to all candidates.

. The aforesaid indicates that the Examining Authority though considered the objections received even after the cut-off date, the benefit of the corrections undertaken has been given to all candidates. As stated above, it is not the grievance of the petitioners that they have been excluded from the benefit that has been given to other candidates. The Revised Merit List as published on 11th March 2024 and the Revised Select List as published on 14th March 2024 therefore indicates the actual inter se merit between the candidates who participated in the recruitment process. We therefore do not find any case made out to interfere in exercise of writ jurisdiction. The impugned judgment dated 5th July 2024 passed by the Tribunal does not call for any interference.

11. Hence, for aforesaid reasons, the writ petition stands dismissed with no order as to costs.

12. At this stage, the learned counsel for the petitioners seeks continuation of the interim relief that was granted on 12th July 2024. This request is opposed by the learned counsel for the respondents. The present judgment shall operate after a period of four weeks from the uploading of the order. It is clarified that this continuation of interim relief is only in respect of the present petitioners. The respondents are free to go ahead with appointments in the other category.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]