



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1106 OF 2024

Rina w/o Vijayrao Pendharkar, Mudholkarpeth, Ambadevi Road, Amravati

-VS-

State of Maharashtra, Thr. Director, Vocational Education & Training, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri A. M. Sudame, Advocate for petitioner.

Shri A. A. Madiwale, Assistant Government Pleader for respondents.

CORAM : NTIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : February 20, 2024

P. C.

1. Considering the short issue involved, Rule made returnable forthwith.
2. Shri A. A. Madiwale, learned Assistant Government Pleader waives service of notice for the respondents.
3. Heard finally with consent of learned counsel for the parties.
4. The petitioner has questioned the order dated 09/02/2024 passed by the Maharashtra Administrative Tribunal in Original Application No.104/2024 whereby the prayer of the petitioner for grant of interim relief came to be rejected.
5. The contention of the petitioner is pursuant to an advertisement she applied for the post of Craft Instructor (Cosmetology) from reserved category NT (B) for which the required qualification was held by her. The candidature of the petitioner appears to have been rejected on the ground that she does not fulfill the age limit criteria having crossed the

age of 43 years.

6. The Tribunal noted that the petitioner in her application has mentioned her date of birth as 05/01/1977 whereas her Mark Sheet and Leaving Certificate show her date of birth as 01/05/1977. The Tribunal further noted that the learned CPO brought to its notice the date of birth of the petitioner from the Municipal Corporation record as 19/05/1978 and as such refused to grant interim relief.

7. The fact remains that the petitioner is seeking public employment and such services are governed by the provisions of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981 (for short, the said Rules). The learned counsel for the petitioner also draws support from the contents of Government Resolution Dated 17/12/2021.

8. The amended Rule 38 (2)(a) of the said Rules contemplates the matriculation certificate to be relevant document for consideration of correct date of birth to be entered in service record at the time of granting employment. The date of birth in matriculation certificate of the petitioner which is produced at Annexure-A/3 to the petition is 01/05/1977. If the aforesaid date of birth that is 01/05/1977 is considered still fact remains that the petitioner is within the age limit criteria of 43 years.

9. In the aforesaid backdrop of provisions of Rule 38 (2)(a) of the said Rules referred above we are of the view that the petitioner has

made out a prima facie case for grant of relief.

10. That being so, we dispose of the petition with directions to the respondents to keep the post of Craft Instructor (Cosmetology) from reserved NT (B) category which is applied by the petitioner vacant till final disposal of Original Application No.104/2024.

11. The Tribunal is requested to decide the Original Application No.104/2024 as early as possible within a period of eight weeks from production of this order before it.

12. Rule is made absolute in aforesaid terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)