

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 11171 OF 2025**

Ajit Vilasrao Thorat and Others.

...Petitioners.

**Versus**

The State of Maharashtra and Others.

...Respondents.

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*Mr. Kalpesh U. Patil for the Petitioner.*

*Mr. V. M. Mali, AGP for State.*

*Mr. Ashutosh M. Kulkarni (through V.C.) and Siddharth Shitole for Respondent No. 2.*

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**Coram :** M. S. Karnik &  
Sharmila U. Deshmukh, JJ.

**Date :** September 9, 2025.

**Order (Per Sharmila U. Deshmukh, J.):**

1. The instant Petition questions the order dated 5<sup>th</sup> September 2025 passed in Original Application No.961 of 2025 by the Maharashtra Administrative Tribunal, Mumbai [for short "***Tribunal***"] declining the grant of ad-interim relief to permit the Petitioners to participate in the selection process to the post of Assistant Geologist.

2. Pursuant to the advertisement dated 19<sup>th</sup> December 2022 issued by the Respondent No.2, the Petitioners applied for recruitment to the post of Assistant Geologist, Group B in the Directorate of Groundwater Surveys and Development. There were 2 posts reserved for EWS category out of total 22 posts and based on the valid certificate issued

by the competent authority, applications were filed by the petitioner nos.1 and 2 on 9<sup>th</sup> January 2022 and by the Petitioner no.1 on 3<sup>rd</sup> January 2022.

3. On 24<sup>th</sup> February 2024, the Maharashtra State Reservation for Socially and Educationally Backward Classes Act, 2024 [for short "**SEBC Act**"] was passed and for implementation of the reservation provided by the said enactment, GR was issued on 27<sup>th</sup> February 2024. On 19<sup>th</sup> September 2024, the Respondent No. 2 issued a corrigendum whereby the Respondent No. 2 increased the number of posts from 22 to 36. Out of these 36 posts, 4 posts were reserved for SEBC category, 4 posts were reserved for EWS category and 6 posts were reserved for Open category. Clauses 3 to 6 of the said corrigendum instructed the candidates from Open category as well as EWS category who have received valid caste certificate of OBC category or SEBC category to alter their claim and submit options in pursuance thereto from respective eligible category within the schedule prescribed in clause 6.7. The application was required to be filed latest by 7<sup>th</sup> October 2024 as per clause 7 of the said corrigendum.

4. On 3<sup>rd</sup> July 2025, list of 180 qualified candidates was published which included the names of Petitioners. On 22<sup>nd</sup> August 2025, the Respondent No. 2 issued notification, declaring 9<sup>th</sup> September 2025 and 10<sup>th</sup> September 2025 as the dates of interview for the candidates

who have qualified as per the list published on 3<sup>rd</sup> July 2025. On 26<sup>th</sup> August 2025, the Respondent No.2 declared two lists, one of eligible candidates and other of non eligible candidates. The Petitioners' names were reflected in the non eligible candidates for the reason that their application is under the EWS reservation and as per clause 4 of the corrigendum, they were ineligible. It was further stated that ineligible candidates can submit their grievance within a period of three days from the date of publication of list. Immediately, the Petitioners placed on record their grievance through proper channel. However, there was no response.

5. On 2<sup>nd</sup> September 2025, the Petitioners filed O.A. No.961 of 2025 before the Tribunal seeking *inter alia* quashing of corrigendum dated 19<sup>th</sup> September 2024 and for a declaration to include the names of Petitioners in the list of eligible candidates from EWS category. In the alternative, the Petitioners prayed for a direction to the Respondent No.2 to consider the candidature of the Petitioners from SEBC category and permit them to participate in further selection process.

6. By the impugned order dated 5<sup>th</sup> September 2025, the Tribunal considered the corrigendum issued by Respondent No. 2 as well as the decision of the Constitution Bench of the Hon'ble Apex Court in ***Janhit Abhiyan v. Union of India (EWS Reservation)***<sup>1</sup> and held that there is no

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1 (2023) 5 SCC 1.

question of SEBC candidate having any opportunity to exercise the option or choose between EWS and SEBC reservation, irrespective of the fact whether they possess the certificate to that effect or otherwise. The Tribunal further held that certificate tendered by Petitioners across the bar under SEBC category were obtained in the month of July / August 2025 when they were required to be obtained on or before 7<sup>th</sup> October 2024.

7. We have heard learned Counsel for the Petitioner and learned Counsel for the Respondent No. 2-MPSC.

8. Learned Counsel for the Petitioner submits that Tribunal has failed to take into consideration its earlier ad-interim orders passed in the case of similarly placed candidates where the Tribunal had allowed the applicants therein to participate in the on-going interview process. He submits that the advertisement for recruitment was issued on 19<sup>th</sup> February 2022 and the SEBC Act came into force in February 2024. He submits that after a period of almost 1 year and 9 months, the corrigendum was issued by the Respondent No.2. He submits that as per clause 4 of the said corrigendum, the option was required to be exercised only by those candidates who had obtained SEBC certificate and the candidates who had not obtained the SEBC certificate were permitted to continue under EWS category. He submits that though the last date for submission of application under the SEBC category

was 7<sup>th</sup> October 2024, the Petitioners were permitted to appear for the written examination conducted on 5<sup>th</sup> April 2025 in which the Petitioners secured marks which were above the cut off marks declared for EWS category. He submits that though on 3<sup>rd</sup> July 2025, the Petitioners who were declared eligible, just before the interview scheduled on 9<sup>th</sup> September 2025, were declared as ineligible. He submits that in the OA filed before Tribunal, the Petitioners sought an alternative relief for considering the candidature of Petitioners from SEBC category, which was not considered by the Tribunal apparently on the ground that the SEBC certificates had been obtained by the Petitioners in the month of July / August 2025 when the corrigendum was published on 19<sup>th</sup> September 2024 and the certificates were to be obtained prior to 7<sup>th</sup> October 2024.

9. He submits that the Petitioners have at present obtained the SEBC certificates and may be permitted to participate in interview and the outcome of process may be made subject to the result of OA.

10. *Per contra*, learned Counsel for the Respondent No.2–MPSC submits that the Tribunal has passed a well reasoned order rejecting the ad-interim relief considering the provisions of Articles 15 and 16 of the Constitution of India and the constitution bench judgment in ***Janhit Abhiyan v. Union of India*** (supra). He has taken this Court in detail through Articles 15 and 16 as well as the decision of the Hon'ble

Apex Court in ***Janhit Abhiyan v. Union of India*** (supra) and would submit that the Hon'ble Apex Court has upheld the constitutional validity of 103<sup>rd</sup> amendment of the Constitution excluding the classes covered by Articles 15(4), 15(5) and 16(4) of the Constitution of India from getting the benefit as economically weaker sections. He submits that EWS reservation is a water-tight compartment, which is not available to SEBC candidates and the Petitioners being covered by the SEBC enactment, could not claim any benefit under the EWS category. He submits that earlier decisions by the Tribunal were ad-interim orders and the Tribunal has thereafter considered the relevant aspects which were not considered earlier and have re-considered the aspect of grant of interim relief. He submits that there was no written examination held and the last date for submission of certificate under the SEBC category was 7<sup>th</sup> October 2024.

**11.** We have considered the submissions and perused the record.

**12.** The factual position which exists as on today is that the Petitioners have obtained necessary certificates under the SEBC category and the only obstacle in the way of Petitioners in appearing for interview is that the certificates have been obtained belatedly in the month of July and August 2025 whereas as per the corrigendum such certificates were to be obtained prior to 7<sup>th</sup> October 2024. As far as the constitutional mechanism and the decision of the Hon'ble Apex

Court in ***Janhit Abhiyan v. Union of India*** (supra) is concerned, the Hon'ble Apex Court has upheld the constitutional amendment by holding that exclusion of the classes covered by Articles 15 and 16 from getting the benefit of reservation as EWS does not violate the equality code and does not in any manner cause damage to the basic structure of the Constitution of India. At this stage, we are considering the limited prayer of Petitioners to permit them to participate in the interview process.

**13.** The Petitioners prayer for ad-interim relief for permission to participate in the interview has been declined and the O.A. is pending for hearing of the interim relief.

**14.** The O.A. filed before the Tribunal specifically pleads that the Petitioner had appeared for the written examination conducted on 5<sup>th</sup> April 2025 and their results were declared and pursuant thereto on 3<sup>rd</sup> July 2025, the Petitioners name appeared in the list of qualified candidates published by the Respondent No. 2. Reliance placed by Mr. Kulkarni on the last date for submission of application under the SEBC category as of 7<sup>th</sup> October 2024 pales in significance when considered against the fact that the Petitioners were permitted to appear for the written examination conducted on 5<sup>th</sup> April 2025 and that their names had featured in the list of qualified candidates published on 3<sup>rd</sup> July 2025. It is only subsequent to the issuance of advertisement on 19<sup>th</sup>

December 2022 and filing of applications by Petitioners that SEBC Act, 2024 was enacted on 24<sup>th</sup> February 2024, by reason of which the candidates who were covered by the said enactment could not have availed the benefit of EWS category.

**15.** Upon considering the overall facts and circumstances of the case, we are of the opinion that as the Petitioners were declared eligible as per the list published on 3<sup>rd</sup> July 2025 and the O.A. is pending for hearing on interim relief, it would be in the interest of justice that the Petitioners be permitted to participate in interview process.

**16.** The Petition has been filed challenging the refusal by the Tribunal to grant ad-interim relief. Affidavit-in-reply is yet to be filed by the Respondents. In the peculiar facts of this case, we are inclined to request the Tribunal to expedite the hearing of the Original Application No. 961 of 2025. The Tribunal is requested to hear and decide the O.A. itself as expeditiously as possible and preferably within a period of 10 weeks from the date when this order is placed on its record. It is made clear that the observations made by us are limited to the grant of ad-interim relief in favour of the Petitioners and shall not influence the Tribunal when the matter is heard finally. The O.A. to be decided on its own merits. The parties to co-operate with the Tribunal in the expeditious disposal of O.A. The affidavit-in-reply is to be filed within the time stipulated by the Tribunal.

**17.** In the facts and circumstances of the case, we are of the considered view that the Petitioners can be permitted to appear for interview as an interim measure, which will be subject to outcome of decision of Tribunal in O.A. No. 961 of 2025.

**18.** The Writ Petition, therefore, succeeds and is allowed in the aforesaid terms. No order as to costs.

**[Sharmila U. Deshmukh, J.]**

**[M. S. Karnik, J.]**