



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5165 OF 2024

Rekha d/o Shankar Shinde,
Aged about 24 years,
Occupation-Educated Unemployment,
R/o. Sawa, Post-Bhandegaon, Tahasil and
District-Hingoli

... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary, Department of Rural
Development and Panchayat Raj
Department, Mantralaya, Mumbai – 32.
2. District Selection Committee,
Through its Chairman/the District Collector,
Washim, District Washim.
3. District Selection Committee,
Through its Member/the Chief Officer, Zilla
Parishad, Civil Lines, Washim, District
Washim.
4. District Selection Committee,
Through its Member Secretary/the Deputy
Chief Officer (General), Zilla Parishad, Civil
Lines, Washim, District Washim.
5. District Selection Committee,
Through its Member/the Deputy Chief
Officer (Panchayat), Zilla Parishad, Civil
Lines, Washim, District Washim.
6. Mangal d/o Mahadeo Godse,
Aged about 23 years,

Occupation : Service, R/o. Post : Ujni,
Tahasil : AUSA, District : Latur 413520,
Email : mangal.mrandave122@gmail.com

7. Nanda d/o Jagan Kale,
Aged about 22 years,
Occupation-Service,
R/o. Khambala, Post-Tahasil & District-
Hingoli 431513.
Email: nandakale2396@gmail.com.

... **RESPONDENTS**

Mr. V. B. Gawali, Advocate for Petitioner.
Mr. A. S. Fulzele, Addl. Government Pleader for Respondent Nos.1 & 2.
Mr. M. L. Vairagade, Advocate for Respondent No.3.
Mr. P. S. Kshirsagar, Advocate for Respondent Nos. 6 & 7.

CORAM

: SMT. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.

ARGUMENTS HEARD ON : JULY 14, 2025.

PRONOUNCED ON : AUGUST 11, 2025.

JUDGMENT [PER PRAVIN S. PATIL, J.]

. Heard. **Rule.** Rule made returnable forthwith. By consent of the parties, Petition is taken up for final hearing at the stage of admission.

2. By this Petition, Petitioner claims her inclusion in selection list against the post of Gramsevak (Contractual) from E.W.S. Women reservation category by setting aside the selection of Respondent Nos.6 and 7 published

vide selection list dated 19/8/2023 by respondent nos.2 to 5 on the ground that she has committed inadvertent mistake while applying the post by not opting from the Women Reservation Category.

3. Brief facts of the Petition are as under :

On 5/8/2023 Respondent Nos.2 to 5 i.e. District Selection Committee issued an advertisement to fill up the various posts of Group-C for Zilla Parishad, Washim. As per this advertisement No.1/2023, the specific instructions were given to the candidates that before applying for the post, they should open the website and go through it thoroughly and if found some objections, that objections will be satisfied on the helpline number given in the advertisement. It is further stated in the terms and conditions of the advertisement, particularly under clause – 3.13, that candidate should state his name, social category, from which category he/she applying for the post, date of birth, mobile number and email ID etc.. It is further made clear that if Applicant failed to submit these details, Zilla Parishad, Washim would not be responsible for their rejection of application.

4. It is further submitted that according to the advertisement, 16 posts were earmarked for Gramsevak (Contractual). Out of these 16 posts, as

per the reservation, five posts falls for Economically Weaker Section category. Out of these 5 posts, 3 posts were reserved for EWS (General) category and two posts falls in horizontal reservation i.e. woman reservation. This categorisation was specifically published along with the advertisement published by the District Selection Committee.

5. That in furtherance of the advertisement issued by the Respondents, Petitioner submitted her online application dated 24/8/2023. In front of the column of “category of candidate” she had specifically mentioned as E.W.S. (Economically Weaker Section), then under the caption of ‘applied under which category,’ she has mentioned, ‘E.W.S.’, however, under the caption, ‘Are you applying under women reservation?’, she has opted ‘No’. This fact is clear from her application, which is placed on record as Annexure – B (Page 71).

6. That Petitioner accordingly participated in the recruitment exercise undertaken by the Respondent Nos.2 to 5. The examination of the candidates was conducted on 20/6/2024. Thereafter, Respondent Nos.2 and 3, on 26/7/2024 published provisional combined list of qualified candidates in descending order of marks for the recruitment of the post of Gramsevak. In the said list, from E.W.S. category, one Suresh Gajanan Surve obtained 148 marks

and one Dinesh Dnyaneshwar Singare obtained 148 marks and petitioner secured/obtained 144 marks.

7. Likewise, from the category of candidates from E.W.S. Women reservation category, on the basis of examination conducted on 20/6/2024, Respondent No.6, who had applied from women reservation category secured 130 marks, and respondent no.7 secured 122 marks.

8. The Petitioner, after declaration of the provisional combined list, neither objected nor raised any grievance that her candidature was not considered from E.W.S. women reservation category. As such, the selection committee proceeded further and on 19/8/2024 published the final selection list of the candidates for the post of Gramsevak (Contractual) for 16 posts. As per the said selection list, two persons namely, Suresh Gajanan Surve and Dinesh Dnyaneshwar Shingare were shown to be appointed from E.W.S. general category and Respondent Nos.6 and 7 were shown to be appointed under horizontal reservation i.e. women reservation. And one post reserved for Ex-Serviceman (EWS category) shown vacant. Petitioner's name is shown in waiting list of EWS general category at Sr.No.1.

9. After declaration of the final selection list, Petitioner approached to this Court by making a grievance that on 25/8/2023 while applying the post of Gramsevak (Contractual) from E.W.S. category, inadvertently she has not opted 'Yes' to the question, 'Are you applying under women reservation?' Hence, considering the fact that Respondent Nos.6 and 7, obtained less marks than the Petitioner, she should be declared as selected from the women reservation category. Petitioner stated that she secured 144 marks, whereas Respondent Nos.6 and 7 secured 130 and 122 marks respectively. Hence, considering the merit of the Petitioner, selection of the Respondent Nos.6 and 7 be cancelled and Petitioner's name for the post of Gramsevak (Contractual) be included in final select list of EWS-Women Reservation Category.

10. In response to the notices issued to the Respondents, they appeared in the matter and categorically stated that under clauses – 3.13 and 3.18 of the instructions manual, it was made clear to every candidate applying for the post that the candidate should diligently go through the application form and rightly opt for the relevant category and failure to do so will deprive them from considering their candidature. However, in spite of these specific directions, Petitioner failed to apply from the specific category, and therefore, now she cannot raise grievance for her non-selection. It is further pointed out

that if there was mistake on the part of Petitioner while applying for the post, she could have raised her grievance immediately after submitting her application, but it is clear from the record that till final selection of the candidate, she has never raised her grievance before any of the authority. Hence, considering the conduct of the Petitioner, it is clear that she is only trying to take a chance only because Respondent Nos.6 and 7 secured less marks from woman reservation of E.W.S. category than the Petitioner. Hence, considering the overall factual position, the Petitioner did not approach with clean hands, and therefore, Petition deserves to be dismissed.

11. We have considered the submissions made by the learned Counsel for both sides, perused the record as well as the Judgments relied upon by the parties.

12. It is undisputed fact that while issuing advertisement, the instructions given to the candidates are very specific, particularly clauses – 3.1, 3.2, 3.4 and 3.13 of instructions manual. Hence, failure on the part of Petitioner to apply specifically from the women reservation i.e. horizontal reservation take away her right to get appointment from that category. Hence, according to us, *prima facie* we do not find any merit in the submission of the Petitioner.

13. Bare perusal of the application form of the Petitioner clearly demonstrate the fact that she has categorically denied the option, 'Are you applying under women reservation?' by stating 'No' in her application therefore subsequently she cannot be permitted to change her category merely because candidates from that category secured less marks than her. Hence, we do not find any merit in the submission of the Petitioner.

14. It is pertinent to note that in the present Petition, the application was for the post submitted by the Petitioner on 25/8/2023, thereafter examination was conducted on 20/6/2024 and the provisional list of the candidates qualified for the post on the basis of marks obtained by them in the examination was published on 26/7/2024. During this period, Petitioner never raised her grievance to either of the Authorities stating that there was any mistake on her part while applying for the post. What we found that even after declaration of the provisional combined list, till declaration of the final selection list, no objection was raised by the Petitioner. Hence, it can be concluded that Petitioner was aware that as she has not applied from E.W.S. Women reservation category, she has no right over the post, and therefore, she has not raised any objection till the conclusion of the recruitment exercise.

15. That from the record what it is revealed that the Petitioner has secured 144 marks, whereas the Respondent Nos.6 and 7, who had applied from E.W.S. Women reservation category has secured 130 and 122 marks respectively. Thereafter, Petitioner realised that as Respondent Nos.6 and 7 secured less marks than her, she can claim her appointment from E.W.S. Women reservation category. Accordingly, first time before this Court she raised a grievance that her candidature should have been considered from Women Reservation as due to inadvertent mistake she has not opted 'Yes' to the question, 'Are you applying under women reservation?', we are not impressed with this submission of petitioner, as same is not permissible as per settled principles of law.

16. The learned Counsel appearing for Respondent has rightly relied upon the decision of the Division Bench of this Court in the case of ***State of Maharashtra & Anr. V/s Gayabai Gorakh Pokale & Ors. in Writ Petition No. 10085 of 2016, dated 26/4/2018***, wherein in paragraph No.23 this Court has observed as under :

“23. For the forgoing reasons when the applicant did not submit non-creamy layer certificate with the application form and did not claim benefit of 30% reservation available for women category mentioning the said fact in column Nos.11 and 12 of the application

form, her request to give her benefit of 30% reservation for women category, rejected by respondent Collector by letter dated 17.03.2017 cannot be said to be illegal.”

17. The learned Counsel for Respondents further relied upon the Judgment of Hon’ble Supreme Court of India in the case of ***A. P. Public Service Commission V/s Koneti Venkateswarulu and Others***¹, wherein the Hon’ble Supreme Court has observed as under :

“At no point of time did the first respondent inform the appellant Commission that there was a bona fide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant Commission discovered by itself that there was suppressio veri and suggestio falsi on the part of the first respondent in the application that the respondent came forward with an excuse that it was due to inadvertence. The explanation in such circumstances is unacceptable and does not deserve any public employment.”

18. It is further relied upon the Judgment of Hon’ble Supreme Court in ***State of Tamil Nadu & Ors. V/s G. Hemalathaa & Anr. in Civil Appeal No. 6669 of 2019***, wherein in paragraph No.7, the Hon’ble Supreme Court has observed as under :

“7. We have given our anxious consideration to the submissions made by the learned Senior Counsel for the Respondent. The instructions issued by the Commission are mandatory, having the

¹ (2005) 7 Supreme Court Cases 177

force of law and they have to be strictly complied with. Strict adherence to the terms and conditions of the instructions is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the instructions issued by the Commission.”

19. That from the abovesaid law laid down by the Hon’ble Supreme Court of India, it is necessary for the candidate to adhere to the terms and conditions of the instructions in the advertisement and same is of paramount importance. The Petitioner cannot claim benefit after completion of the recruitment exercise by stating that he/she inadvertently not opted from particular category.

20. In the present Petition, it is admitted fact that Petitioner did not opt from the E.W.S. Women reservation category. Furthermore, from the date of submitting her application dated 25/8/2023 till the date of selection of candidate i.e. 19/8/2024, Petitioner no where raised her grievance stating that there was inadvertent mistake on her part. Hence, considering the entire factual aspect, we are of the opinion that Petitioner, after completion of the recruitment exercise, cannot be allowed to change her category and take benefit of her caste or her gender in the recruitment exercise.

21. Accordingly, we find no merit in the submission of the Petitioner, hence Petition is **dismissed**.

22. Rule is discharged. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]

Lateron :

23. Learned counsel for the petitioner submits that interim order is in operation in the matter dated 3rd September, 2024 till today may be extended for a period of six weeks to approach to the Hon'ble Supreme Court of India. However, the same is strongly opposed by the respondents.

24. Considering our findings recorded in the matter and recruitment exercise is already stalled, the period of four weeks is granted to approach to the Hon'ble Supreme Court of India.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]