

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

WRIT PETITION NO.1746 OF 2026

Ms.Heena Qasim Phoplunkar,

Age : 34 Years, Occupation : Service,

Residing at post : Sai, Taluka : Mangaon,

District : Raigad.

...Petitioner

Versus

1. **The State of Maharashtra,**
Through Government Pleader,
High Court (Appellate Side),
Writ Cell, Fort, Mumbai.
2. **Maharashtra Public Service Commission,**
Through The Secretary,
Address : Trishul Gold Field, Plot No.34,
Sector 11, Opposite Sarovar Vihar,
Belapur CBD, Navi Mumbai : 400614.
3. **The Principal Secretary,**
General Administrative Department,
Having Office at Mantralaya, Mumbai.

...Respondents

=====

Mr.Surel Shah (Senior Advocate) a/w Mr.Saakshat Relekar,
Mrs.Kalpana Chate, Mr.Bharat Shinde, Mr.Govind Mundhe, Mr.Parth
Wareraj Ware and Mr.Vinod Kendre i/b. Chate and Associates,
Advocates for Petitioner.

Ms.Kavita N. Solunke, Addl.G.P. for Respondent Nos.1 and 3–State.

Ms.Pranali Kakade, Advocate for Respondent No.2–MPSC.

=====

Digitally
signed by
LATA SUNIL
PANJWANI
Date:
2026.02.25
17:48:00
+0530

**CORAM : M.S.KARNIK &
S. M. MODAK, JJ.**

DATE : 18th FEBRUARY 2026

ORAL JUDGMENT : (PER : M.S.KARNIK, J.)

1. This petition challenges the order dated 29th January 2026 passed by the Maharashtra Administrative Tribunal, Mumbai (“**TRIBUNAL**”, henceforth, in short) dismissing the Original Application No.1423 of 2025 (“**OA**”, for short) filed by the petitioner / original applicant. The OA was filed by the petitioner for the following reliefs:-

- “a. This Hon’ble Tribunal be pleased to hold that the general merit list published by Respondent on 30/10/2025 is incorrect as Respondent has failed to include name of the Applicant in the general merit list.
- b. This Hon’ble Tribunal be pleased to quash and set aside impugned letter dated 09/11/2025 issued by MPSC and direct the Respondent MPSC to consider the Representation dated 12/11/2025-19/11/2025 submitted by the Applicant and further be pleased to direct Respondent MPSC to revise and include the name of the applicant in the general merit list and further, if found fit, direct MPSC to call for preferences from the applicant.”

2. The facts of the case in brief are that the petitioner is a candidate who belongs to the ‘*Economically Weaker Section*’ (“**EWS**”, for short) who applied for appointment to the post in Civil Services and Multi-Cadre of the State of Maharashtra. An advertisement was published by the Respondent No.2 – Maharashtra Public Service Commission

(“MPSC” for short) on 29th December 2023 for the purpose of recruitment and filling-up 274 posts. The petitioner filed an application along with necessary documents and thereafter, the hall ticket was issued to the petitioner on 28th April 2024. After clearing Preliminary Examinations, the second advertisement was published on 18th March 2025 wherein it was stipulated as to the Main Examinations to be held on 28th April 2025.

3. On 28th March 2025, the petitioner filed an application form in the EWS Category (Female). The petitioner passed all examinations and scored 545.75 marks under EWS Female Category. The petitioner received an interview call letter on 1st October 2025. As per clauses 5 and 6 of the interview letter, only after thorough verification of the petitioner’s documents, such interview letter was addressed which the petitioner attended. The general merit list was published by the respondent No.2 wherein the petitioner’s name was not enlisted. The last candidate from the said category had scored 532.25 marks and therefore, the petitioner having scored 545.75 marks was expecting that she would be appointed.

4. The petitioner, on inquiry, came to know that there was some error in her EWS certificate which fact was never communicated to her. Accordingly, a representation was made by the petitioner on 31st

October 2025 along with the EWS certificate. On 9th November 2025, the respondent No.2 – MPSC addressed a letter to the petitioner seeking clarification of the documents submitted by the petitioner. By representation dated 12th November 2025, the petitioner submitted the relevant EWS certificates for the years 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

5. As there was no response from the respondent No.2, the petitioner filed OA before the Tribunal in December-2025. By the interim order dated 17th December 2025, the Tribunal directed the respondents to permit the petitioner to participate in the selection process. The Tribunal dismissed the OA on 29th January 2026 holding that the petitioner did not possess the EWS certificate for the year 2023-2024 which was an essential requirement.

6. Ms.Pranali Kakade, learned counsel for MPSC argued in support of the impugned order. It is submitted that the petitioner had knowledge of the form in which the EWS certificate was to be furnished. It is submitted that admittedly the certificate produced by the petitioner was not in the form required and the certificate which was produced by the petitioner was valid for the year 2024-2025 and not for the year 2023-2024 which was the requirement. It is further submitted that no reliance can be placed on the subsequent

communications of the Tahsildar which is relied upon by the petitioner as these communications only signed by the Tahsildar only make a reference to the fact that such a certificate was for the year 2023-2024, but this does not fulfill the essential requirement that the Certificate has to be in the form prescribed. Learned counsel for MPSC was at pains to point out that it is not expected from the MPSC analyze all the documents and come to the conclusion that the certificate that is produced by the petitioner is valid for the year 2023-2024 when factually the certificate that is produced by the petitioner is valid for the year 2024-2025. In support of her submissions, learned counsel for the MPSC relied upon the Affidavit-in-Reply filed on behalf of the respondent Nos.2 and following decisions:-

- (i) *Mohit Kumar V/s. State of Uttar Pradesh and Ors., decided on 15th May 2025 by the Hon'ble Supreme Court in Civil Appeal No.5233 of 2025.*
- (ii) *Divya V/s. Union of India and Others [(2024) 1 Supreme Court Cases 448].*
- (iii) *Bedanga Talukdar V/s. Saifudaullah Khan and Others [(2011) 12 Supreme Court Cases 85].*

7. We have heard Mr.Surel Shah, learned Senior Advocate for the petitioner, learned counsel Ms.Pranali Kakade for respondent No.2 – MPSC and Ms.Kavita Solunke, learned Addl.G.P. for respondent Nos.1

and 3 – State.

8. The Tribunal held that the respondent No.2 – MPSC is not expected to scrutinize the documents submitted to form an opinion that the EWS certificate for the year 2023-2024 is a valid document. It was further held that the Tahsildar is not competent to issue EWS certificate. The Tribunal observed that the advertisement in question does not expressly mention as to for which year the EWS certificate is submitted but the same has to be read with the Government Resolutions (“GR”, for short) dated 12th February 2019 and 31st May 2021. For the sake of uniformity, the Tribunal observed that the MPSC rejected another candidate for want of EWS certificate. The relevant findings of the Tribunal need to be extracted as learned counsel for the respondent No.2 – MPSC heavily relied upon the said findings in support of the submissions. The findings read thus:-

“11. Having considered the rival submissions and having perused the papers it is necessary to emphasize the fact that as a matter of fact the applicant does not possess any EWS certificate for the year 2023-24 even now. What she has been expecting is that the MPSC and even the tribunal shall undertake some kind of scrutiny of the certificate at pg 26 which is dated 09.05.2024 coupled with the subsequent certificate of Tahsildar dated 17.05.2022 (Exhibit C), to deduce an inference that this certificate (pg 26) though in the

heading mentions it to be valid for the year 2024-25 should be treated as valid for the year 2023-24. In our considered view no such inferential exercise could have been undertaken by the MPSC once it was noticed that she had not produced the EWS certificate for the year 2023-24. It was not expected of the MPSC to undertake some scrutiny, note the facts and draw some inference to reach the conclusion that the applicant was belonging to EWS category, more so when the GRs dated 12.02.2019 and 31.05.2021 expressly expected the candidates to possess EWS certificate which is valid for the financial year in which advertisement is issued, which in the present case was issued on 29.12.2023.

12. For that matter, even the Tribunal, in exercise of the powers under Article 226 of the Constitution of India cannot indulge into such inferential deduction by sifting the evidence.
13. Surprisingly, even if the certificate of the Tahsildar issued on 17.05.2022 (Exhibit C) has to be considered, one wonders as to why the Tahsildar has to indulge into any such act of interpretation of the certificate (Pg 26) issued by him. The learned advocate for the applicant could not dispute the fact that the Tahsildars can legally issue the EWS certificate for a particular financial year only during that year. They cannot issue such certificates for the previous financial year /s. If this is so, a plane reading of the certificate issued by the Tahsildar (Exhibit C) reveals that the applicant submitted the application to his office for obtaining EWS certificate on 23.04.2024 and accordingly it was issued on 09.05.2024. It

is precisely for this reason that endeavour is being made by the applicant to emphasize that the EWS certificate dated 09.05.2024 to be treated as valid for the year 2023-24. Firstly, the Tahsildar could not have issued such certificate in the subsequent financial year and, secondly, the certificate itself in the heading mentions it to be valid for the year 2024-25.

14. Though the learned advocate for the applicant faintly argued that the applicant had submitted the application for EWS certificate in Jan.2024, neither there is any such pleading nor is a copy of such application produced on the record, nor was her such a stand at any earlier point of time. Therefore, the applicant is not entitled to claim that the EWS certificate produced by her expressly stating it to be valid for the year 2024-25 should be regarded and treated as valid for the year 2023-24.
15. True it is that both the advertisements in question do not expressly mention as to for which financial year the candidates should possess the EWS certificate. The advertisements cannot be read in isolation but will have to be read in conjunction with the relevant GRs, dated 12.02.2019 and 31.05.2021. Undisputedly, many other EWS candidates could produce valid EWS certificates for the year 2023-24. This is sufficient to dispel the convenient stand taken by the applicant about the confusion in her mind. It is not her case that all the candidates were in similar confusion.
16. Obviously, there cannot be a dispute that a uniform criteria has been applied by the MPSC as is evident from admitted

disqualification of a fellow candidate Smt. Bhagyashri Kulkarni. In these circumstances, merely because she is meritorious, the applicant is not entitled to claim any writ of mandamus against the MPSC for consideration of her eligibility which she pertinently does not possess for not having a valid EWS certificate. There is no merit in the Original Application and it is liable to be dismissed.”

9. The petitioner applied under the EWS Category. Though it is the submission of learned Senior Advocate for the petitioner that the advertisement does not stipulate the relevant year for which the valid EWS certificate is the requirement, the materials on record indicate that even the petitioner has correctly understood that the EWS certificate had to be valid for the year 2023-2024. We, therefore, proceed to consider whether the EWS certificate which is produced by the petitioner is in compliance with the essential requirement or not.

10. Before we proceed further, it would be profitable to seek guidance from the decisions of the Hon’ble Supreme Court in the matter of submitting the certificates required in the form prescribed during the course of the recruitment. In the case of ***Mohit Kumar*** (supra), Their Lordships were considering the issue “*whether UPPRPB was bound to accept the OBC certificates submitted by Mohit and Kiran which, admittedly, were not in the format prescribed in the*

Recruitment Notification". In that context, Their Lordships observed that *"instead of producing a certificate by the competent authority, the applicant produced a certificate issued by the Director of the Backward Classes Welfare Department certifying him as a member of the Scheduled Tribe community; hence, such certificate was ignored and he was considered to be a general candidate"*. The Hon'ble Supreme Court has laid down that *"non-compliance with the terms of the advertisement/notification is bound to trigger adverse consequences of rejection of the aspirant's claimed status by the selecting body/appointing authority, should he choose not to adhere to the same. Having regard thereto, the selecting body/appointing authority would be justified in not entertaining the application of an aspirant as a member of the community for whom reservations are permissible"*.

11. In the light of what has been observed by Their Lordships, this Court is bound by the proposition expounded which we must bear in mind while considering the submissions.

12. The next decision relied upon by the learned counsel for the MPSC is *Divya* (supra). Their Lordships have held that:-

"The candidates claiming benefit of EWS category for the purpose of CSE-2022, acquire eligibility only if they meet the criterion prescribed by the Central Government in the OM dated 19-1-2019 and 31-1-2019 and are in possession of the

required Income and Asset Certificate (“I&AC”), based on the income for the year 2020-21. Further, as required under Rule 28 of the CSE Rules, 2022 read with the OM of 19-1-2019 and 31-1-2019 the candidate should have been in possession of the Income and Asset Certificate (“I&AC”) as on 22-2-2022. Any candidate not in possession of the I&AC in the prescribed format as mentioned hereinabove cannot claim the benefit of EWS category. Equally, as required under Rule 13 of the CSE Rules, 2022 at the stage of DAF-I, the document in possession as on 22-2-2022 in the prescribed format, had to be submitted online before the prescribed date. UPSC was justified in rejecting the candidature of those candidates claiming benefit under the EWS category if they had submitted their I&AC beyond the stipulated deadline.”

13. The Hon’ble Supreme Court observed that:-

“UPSC was justified in prescribing the cut-off date for possession and for uploading of the I&AC in the prescribed format for claimants claiming benefits under the EWS category”.

14. The next decision relied upon by the learned counsel for the respondent No.2 – MPSC is ***Bedanga Talukdar*** (supra). The Hon’ble Supreme Court has held that:-

“The selection process has to be conducted strictly in accordance with stipulated selection procedure which needs to be scrupulously maintained. There cannot be any relaxation in terms and conditions of advertisement unless such power is

specifically reserved in relevant rules and/or in advertisement”.

15. Let us consider the present case on the touchstone of the law laid down by the Hon’ble Supreme Court in the aforementioned cases. In the present case, it is pertinent to note that the advertisement nowhere stipulated a cut-off date for furnishing the documents which would fulfill the eligibility. Clause No.6.12 of the advertisement dated 29th December 2023 prescribes thus:-

“६.१२ आर्थिकदृष्ट्या दुर्बल घटकांतील (ईडब्ल्यूएस) उमेदवारांकरीता शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक : राआधो-४०१९/प्र.क्र.३१/१६-अ, दिनांक १२ फेब्रुवारी, २०१९ व दिनांक ३१ मे, २०२१ अन्वये विहित करण्यात आलेले प्रमाणपत्र, कागदपत्र पडताळणीच्या वेळी सादर करणे आवश्यक राहिल.”

The clause No.6.12 roughly translated in English, provides that in terms of the GR referred in clause No.6.12, the EWS candidates have to provide the necessary EWS certificate at the time of scrutiny of the documents. In the present case, it is pertinent to note that the MPSC had called the petitioner for interview. In Affidavit-in-Reply, it is stated that *“the petitioner got qualified for the interview of the present recruitment process. Thereafter, the petitioner was called for the interview on 10th October, 2025. At the time of document checking before the interview, the petitioner did not produce the E.W.S. certificate valid for the financial year 2023-2024. However, she produced E.W.S. certificates valid for the financial years of 2022-2023*

and 2024-2025". It is stated in the Affidavit-in-Reply that "the petitioner was inadvertently held eligible for the interview by the officer of the Commission".

16. Thereafter, the petitioner submitted a representation thereby requesting the Commission to include the name of the petitioner in the general merit list. In terms of the Instruction No.1.4.3. of the General Instructions to the candidates available on the official website of the Commission, the documents submitted by the candidates belonging to the EWS category were checked by the Commission before publishing the general merit list of present recruitment process. Upon checking, it was found that the petitioner had not submitted the EWS certificate valid for the year 2023-2024. Accordingly, the name of the petitioner is not included in the general merit list published on 30th October 2025 for present recruitment process.

17. Thereafter, the Commission published announcement of 9th November 2025 thereby informing her that she was not included in the general merit list for not producing the requirement EWS certificate. Thereafter, the petitioner submitted a representation thereby requesting the Commission to include her name in general merit list. Accordingly, as per Instruction No.1.4.3 of the General Instructions to the candidates, she was called in the office of the

Commission on 11th November 2025 to represent her stand regarding her non-inclusion in the general merit list and to produce the documents regarding her claim. The petitioner was thus given a chance by the Commission to produce the documents even as on 11th November 2025. Even as per the stand of the MPSC, it is therefore evident that the petitioner had time till 11th November 2025 to substantiate her claim and produce the documents. In the present fact situation and even as per stand of MPSC, 11th November 2025 will have to be regarded as the date by which the petitioner had to furnish the necessary documents to substantiate her claim.

18. The bone of contention is the EWS certificate dated 9th May 2024 issued by the Tahsildar which is at Page No.43 of the petitioner which mentions that the same is valid for the year 2024-2025. In the said certificate, it is mentioned that the gross family annual income for the year 2023-2024 from all source is Rs.7,84,500/- which is less than Rs.8,00,000/-. However, the EWS certificate mentions that the same is valid for the year 2024-2025. We find that as per the eligibility criteria, the EWS certificate is in the proper format, however, the objection of the MPSC is that the same is not for the year 2023-2024 and therefore, such certificate is not considered by the MPSC as a valid certificate.

19. It is not in dispute that if the EWS certificate dated 9th May 2024

produced by the petitioner is regarded as correct, the same was well within time. After opportunity was given to the petitioner, the petitioner had made a representation which received by the MPSC on 31st October 2025 enclosing the additional documents/certificates. The petitioner relied upon the certificate dated 18th April 2024 issued by the Tahsildar which was a certificate regarding the income certificate issued for the year 2023-2024 where the yearly income is shown as Rs.7,84,500/-. The fact that the Tahsildar has issued the certificate which reflects the gross income of Rs.7,84,500/- for the year 2023-2024 clearly demonstrates that there was an error in mentioning the year 2024-2025 in the EWS certificate which was submitted by the petitioner which factually is for the year 2023-2024. Even from the plain reading of the certificate, it would reveal that the EWS certificate is dated 9th May 2024 whereas the validity is for the period from 2024-2025. This is obviously an error committed by the Tahsildar which is then sought to be clarified by the Tahsildar by issuing the clarification/certificate dated 7th November 2025 wherein it is clearly mentioned that the said EWS certificate is for the year 2023-2024.

20. We find that the respondent No.2-MPSC is more on the form than the substance of the certificate. The certificate is in the prescribed format as required by the MPSC. The Tahsildar in fact clarified that the

year mentioned in the certificate is erroneously stated and that the said validity should have been for the year 2023-2024. The petitioner, therefore, cannot be made to suffer for the error committed by the Tahsildar which is apparent on the face of record. Even a plain reading of the EWS certificate dated 9th May 2024 and the certificate dated 18th April 2024 would make it clear that obviously this is an inadvertent error committed by the Tahsildar and in fact, the said certificate for EWS is to be regarded for the year 2023-2024. This is not a case where a detailed analysis was required to be conducted by the MPSC to form an opinion that the EWS certificate was for the year 2023-2024.

21. The petitioner is a meritorious candidate. The petitioner has secured more marks than the candidates whose name who find place in the select list. We hold that the certificate is in the prescribed format and therefore, there is no breach of the eligibility condition prescribed by the MPSC. We are bound by the observations of Their Lordships in ***Mohit Kumar*** (supra), that non-compliance with the terms of the advertisement/notification is bound to trigger adverse consequences of rejection of the petitioner claimed status by the selecting body/appointing authority, should he choose not to adhere to the same. Present is not a case where the petitioner is non compliant with the terms of the advertisement/notification. In fact, the EWS certificate in

the proper format issued by the competent authority i.e. the Tahsildar has been produced. The application made by the petitioner was for the EWS certificate in respect of the income for the year 2023-2024. The mistake committed by the Tahsildar in mentioning the year is accepted by the Tahsildar. This was formally communicated to the petitioner. In such circumstances, the EWS certificate has to be regarded as valid certificate for the year 2023-2024 duly produced by the petitioner which satisfies the eligibility criteria. Moreover, the present is not a case where the cut-off date has been prescribed before which date all the documents have to be furnished. In any case, the EWS certificate has been produced well within time, we, therefore, find the decision of the Hon'ble Supreme Court in *Divya* (supra) is distinguishable on facts.

22. In our opinion, even the decision in *Bedanga Talukdar* (supra) is distinguishable on facts. Their Lordships in *Bedanga Talukdar* , have held that the selection process has to be conducted strictly in accordance with stipulated selection procedure which needs to be scrupulously maintained. It is held by the Supreme Court that, there cannot be any relaxation in terms and conditions of advertisement unless such power is specifically reserved in relevant rules and/or in advertisement. This is not a case of relaxation of the rules. The selection is proceeding in accordance with the stipulated procedure.

This is just a case where the MPSC though should have regarded the EWS certificate produced by the petitioner as a valid certificate, on a very technical consideration, without considering the substance of the certificate is not regarding the EWS certificate produced by the petitioner well in time as valid.

23. The Tribunal was of the opinion that the uniform criteria has to be applied by the MPSC relying on the disqualification of a fellow candidate Smt.Bhagyashri Kulkarni. The Tribunal further held that merely because the petitioner is meritorious, she is not entitled to claim any writ of mandamus against the MPSC for consideration of her eligibility which she pertinently does not possess for not having a valid EWS certificate. The Tribunal, in our opinion, has proceeded on an erroneous premise. The certificate produced by the petitioner has to be held as valid certificate and the petitioner cannot be made to suffer for the mistake that is committed by the Tahsildar. On the face of the materials, it is apparent that the certificate wrongly records the valid year as 2024-2025 when it is obvious that the same is for the year 2023-2024 which error has been clarified by the Tahsildar. In such view of the matter, we quash and set aside the order of the Tribunal.

24. The provisional select list is yet to be forwarded by the MPSC to the State Government. By the interim order, the petitioner was allowed

to participate in the selection process. Further, this Court by interim order held that though the process may go on, one post of the Deputy Superintendent of Police / Assistant Commissioner, Group 'A' be kept vacant. The Writ Petition is, therefore, allowed in terms of prayer clause (a). Consequently, the OA before the Tribunal is allowed in terms of prayer clauses (a) and (b) of the Original Application. The petitioner's name be included at the appropriate place in the select list.

No order as to cost.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)