

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**WRIT PETITION No. 9424 of 2020**

**BETWEEN:-**

**SMT. APEKSHA JAIN W/O KAMLESH JAIN,  
AGED ABOUT 35 YEARS, OCCUPATION:  
UNEMPLOYED C-6, GPH CAMPUS,  
POLOGROUND (MADHYA PRADESH)**

**.....PETITIONER**

**(BY SHRI PIYUSH MATHUR - SENIOR ADVOCATE WITH SHRI L. C.  
PATNE – ADVOCATE)**

**AND**

- 1. MADHYA PRADESH PASCHIM KSHETRA  
VIDYUT VITRAN CO. LTD. MANAGING  
DIRECTOR THROUGH ITS MANAGING  
DIRECTOR, POLOGROUND, GPH CAMPUS,  
INDORE (MADHYA PRADESH)**
- 2. CHIEF GENERAL MANAGER MADHYA  
PRADESH PASCHIM KSHETRA VIDYUT  
VITRAN CO. LTD. GPH CAMPUS,  
POLOGROUND (MADHYA PRADESH)**
- 3. PRINCIPAL SECRETARY GOVERNMENT OF  
MADHYA PRADESH, DEPARTMENT OF  
GENERAL ADMINISTRATION VALLABH  
BHAWAN MANTRALAYA (MADHYA  
PRADESH)**

**.....RESPONDENTS**

**(BY SHRI MADHUSUDAN DWIVEDI – ADVOCATE FOR RESPONDENT  
NOS.1 AND 2 AND MS. HARSHLATA SONI – G.A./P.L. FOR  
RESPONDENT NO.3/STATE)**

.....

Reserved on : 23.01.2024  
Pronounced on : 15.02.2024

.....  
*This petition having been heard and reserved for orders, coming on for pronouncement this day, the court passed the following:*

**ORDER**

Heard finally, with the consent of the parties.

2] This writ petition under Article 226 of the Constitution of India has been filed by the petitioner Smt. Apeksha Jain, who was posted as Account Officer, against the order dated **06.01.2018** (Annexure P/23) and 04.02.2020 (Annexure P/25), passed by the respondent Nos.2 and 1 respectively. Vide order dated 06.01.2018 the petitioner has been removed from her service on the ground that she does not fulfill the eligibility criteria and has been found to be ineligible for service because she has submitted false caste certificate to obtain her appointment. Subsequently, the aforesaid order has been affirmed by the Appellate Authority, the respondent No.1, vide order dated 04.02.2020.

3] In brief, the facts of the case are that the petitioner's father Suresh Chand, who was a resident of Uttar Pradesh was appointed on the post of Hindi Translator in the services of Government of India, Ministry of Home, Department of Census in the year 1983, and was posted at Bhopal. The petitioner was born on 04.03.1985, at Bhopal only and has completed her entire education from Bhopal only. It is not denied that the petitioner's father belongs to Jatav caste, which is a

Scheduled Caste in the State of U.P., and also in the State of M.P. Admittedly, an advertisement was issued by the respondents *Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited* for three companies, for the post of Accounts Officers. In the eligibility criteria of the aforesaid advertisement, it was mentioned that the reservation of post meant for SC/ST/OBC shall be applicable only for the candidates of Madhya Pradesh Domicile, and such candidates should submit a proof of Domicile in M.P. State. And since according to the petitioner, she was born and brought up in the State of M.P. only, and was also issued a Domicile Certificate (Annexure P/3) on 15.06.2004, she also applied for the aforesaid post of Accounts Officer and was got selected vide order dated 29.03.2008. The petitioner was appointed vide order dated 08.08.2008 and was confirmed on 29.10.2012 (Annexure P/8). It is also an admitted fact that the petitioner has been shown as a scheduled caste candidate throughout her carrier in all the gradation lists.

4] It is further the case of the petitioner that she was issued a notice (Annexure R/5) dated 29.09.2014, informing her that her caste certificate has not been issued by the competent Officer of the State of M.P., hence, she should obtain the proper certificate and produce the same. Accordingly, the petitioner obtained the caste certificate from Sub Divisional Officer, Bhopal on 26.09.2014, however, as it was specifically mentioned in the said certificate that it is not meant for the State of M.P. and also that it shall not be used to obtain any reservation and other facility in the State of M.P., after the aforesaid certificate was submitted by the petitioner, she was issued show cause

notice on 16.04.2015 (Annexure P/13), wherein she was directed to produce the caste certificate in proper format and a reference to circular dated 04.04.2000 was also made in which it was stated that the persons, who have migrated to M.P. after 10.08.1950, shall not be entitled to the reservation. Thus, it was stated that subsequent caste certificate obtained by the petitioner would not be applicable to serve in the State of M.P., and the reference was also made to the circular dated 21.07.2003, in which it is stated that any person who obtains a job on the basis of a caste certificate, and if it is found that his certificate is forged or false or wrong in any manner by the High Level Committee, then his services shall be terminated after giving three months' notice. A reply to the aforesaid show cause notice was also given by the petitioner on 27.06.2015, specifically stating that this was not the condition of the advertisement dated 19.01.2008, through which she has been appointed, that the candidate must have the caste certificate issued by the Competent Authority of M.P. only, and what was stated that the candidate should be the domicile of State of M.P. Subsequently, a charge-sheet was issued to the petitioner on 07.11.2015 (Annexure P/15), wherein only charge was framed that the petitioner's initial appointment was not in accordance with the Rules of reservation and as per the Circular dated 19.12.1996. The petitioner contested the aforesaid departmental enquiry/charges-sheet and also filed her reply in line with the her earlier reply/stand, reiterating that the advertisement did not contain the condition that the candidates' caste certificate must be issued by the Competent Officer of the State of M.P. However, the Enquiry Officer has passed the order on

**06.01.2018**, terminating the services of the petitioner holding that she does not fulfill the eligibility criteria and has been found to be ineligible for service because she has submitted false caste certificate to obtain her appointment and the appeal preferred by the petitioner against the aforesaid order has also been rejected by the appellate authority/respondent No.1 vide order dated 04.02.2020, and being aggrieved with the same, this petition has been preferred.

**5]** Shri Piyush Mathur, learned senior counsel assisted by Shri L.C. Patne – counsel for the petitioner, has submitted that the entire departmental proceedings initiated against the petitioner is on a false premise that the petitioner was required to submit her caste certificate, which was to be issued by the Competent Officer of State of M.P., despite the fact that even in the advertisement (Annexure P/4) there is no reference of such condition, and what is provided is that the reservation of the post meant for the SC/ST and OBC shall be applicable only for the candidates of Madhya Pradesh Domicile, such candidates should submit a proof of Domicile in the State of M.P.

**6]** Shri Mathur has also drawn the attention of this Court to the Domicile certificate of the petitioner (Annexure P/3) dated 15.06.2004, which has been issued by the Competent Authority and even in the aforesaid certificate it is clearly mentioned that not only that the petitioner was born in Bhopal, but she has also finished her entire studies at Bhopal only and passed her Class 5<sup>th</sup>, 8<sup>th</sup>, 10<sup>th</sup> and 12<sup>th</sup> as also her Graduation, and that her father is a central government's employee and not a migrant. Thus, it is submitted that the petitioner has not made any false representation before the respondents while

applying for the said post, and even otherwise, it is submitted that the petitioner was a bright student throughout and apart from the fact that she was selected by the respondent No.1 *Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited* for the aforesaid post of Accounts Officer vide order dated 29.03.2008, she was also selected in various other exams (Annexure P/26) viz., Clerical Staff – State Bank of India dated 23.05.2008; Probationary Officer – Syndicate Bank dated 17.06.2008 ; and Store Keeper in Ordinance Factory dated 25.06.2008. Thus, it is submitted that had this notice been issued to the petitioner at the earliest in the year 2008 itself, she could have joined any other service also, however, the respondents waited for around 8 years to issue the show cause notice to the petitioner, which was also issued on a false premise as aforesaid. Thus, it is submitted that the impugned orders are liable to be quashed.

7] Shri Piyush Mathur, learned senior counsel has also relied upon a decision rendered by the Division Bench of **High Court of Uttaranchal** in the case of **Dr. Sandeep Kumar Singh Vs. State of Uttaranchal and others** passed in **Civil Writ Petition No.354(S/B) of 2003 dated 28.02.2006** to substantiate his arguments that the scheduled caste certificate issued in the State of U.P. can be used in the State of M.P. also. Senior counsel has also submitted that in the aforesaid case also the advertisement was issued inviting applications for SC/ST candidates from all over the Country and it is held that the appointment shall be made strictly in accordance with the terms and conditions of the advertisement as held by the Supreme Court in the case of **N. T. Bevin Katti etc. Vs. Karnataka Public Service**

**Commission and others** reported as **AIR 1990 SC 1233** and in that case also the advertisement was not confined to the candidates of Uttaranchal only. Thus, it is submitted that as the aforesaid decision has already been affirmed by the Supreme Court in **Civil Appeal No.4494 of 2006 dated 06.08.2014** while dismissing the SLP of the State, the ratio of the aforesaid decision can certainly be applied in the facts and circumstances of the present case.

8] Senior counsel has also submitted that the original advertisement dated 19.01.2008 did not stipulate the condition of the caste certificate to be issued by the Competent Officer of the State of M.P. can also be demonstrated by the subsequent advertisement, which has been issued by the same department on 13.07.2018 (filed as Annexure P/27), for the very same post of Accounts Officer (D) and in the aforesaid advertisement, it is specifically provided that the caste certificate has to be issued by the Sub Divisional Officer (SDO) of State of M.P., and in addition to that, it is also provided that the reservations will be applicable only to the candidates having M.P. Domicile. Thus, it is submitted that there was no reason for the respondents not to mention the aforesaid condition in the earlier advertisement also and once they have issued the advertisement without such condition of candidate possessing a caste certificate issued by a competent officer, the advertisement is also binding on them, and they cannot change the conditions by applying the circulars issued by the State Government regarding eligibility of a candidate.

9] On the other hand, Shri Madhusudan Dwivedi, learned counsel for the respondent Nos.1 and 2 has opposed the prayer and it is

submitted that no case for interference is made out as the caste certificate issued to the petitioner was not valid for her appointment in the State of M.P. as admittedly, it has been issued by an authority of the State of U.P.

**10]** Counsel for the respondent Nos.1 and 2 has also drawn the attention of this Court to the advertisement Annexure P/4 and it is submitted that the only facility provided to the candidates of SC/ST belonging to the other States was in respect of the Educational qualification and age limit. Counsel has also drawn the attention of this Court to the call letter issued to the petitioner in which under the head of instructions it is mentioned that the candidate is required to ensure that he/she has valid caste issued by the competent authority, and M.P. domicile certificate, if he/she belongs to the State of M.P. Counsel has also drawn the attention of this Court to the circular dated 11.07.2005 (Annexure R/4) in which the provision is also given regarding issuance of caste certificate to the persons, who have migrated to the State of M.P. Para 3 of the same reads as under:-

“3. भारत सरकार , गृह मंत्रालय के आदेश No. BC-16014/1/82-SC&BCD-1 दिनांक 6 अगस्ता , 1984 के अनुसार उपरोक्तानुसार प्रारूप-तीन में जारी जाति प्रमाण पत्र पर आरक्षण की सुविधा उसी राज्य से प्राप्त होगी , जिस राज्य से आवेदक का मूल रूप से संबंध है। मध्यप्रदेश शासन द्वारा देय आरक्षण सुविधा की पात्रता नहीं होगी। किन्तु यह जाति प्रमाण पत्र केन्द्रि सरकारी की सेवाओं/संस्था ओं आदि में आरक्षण का लाभ प्राप्त करने के लिये मान्यं होंगे।”

and it is submitted that the petitioner's parents migrated to the State of M.P. after 1950 and thus, she cannot claim any right on the



basis of the certificate issued to her by the Competent Officer of the State of M.P. Thus, it is submitted that in the absence of proper certificate issued by the Competent Officer, it cannot be said that the petitioner belongs to the scheduled caste category, and even the caste certificate issued to her subsequently, *i.e.*, on 26.09.2014, clearly depicts that caste certificate cannot be used in the State of M.P. for reservation purposes. In support of his submissions, counsel for the respondent Nos.1 and 2 has also relied certain decisions rendered by the Supreme Court in the case of **Marri Chandra Shekhar Rao Vs. Dean, Geth G.S. Medical College and Others** reported as **(1990) 3 SCC 130** and in the case of **Action Committee On Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and another Vs. Union of India and another** reported as **(1994) 5 SCC 244** and it is submitted that a person belonging to SC/ST in relation to his original State of which he is permanent or ordinary resident cannot be deemed to be so in relation to any other State on his migration to that State for the purpose of employment, education etc.

**11]** Ms. Harshalat Soni – G.A./P.L. for the respondent No.3/State has also opposed the prayer and it is submitted that no case for interference is made out as the petitioner's caste certificate has not been issued by the Competent Authority and the subsequent caste certificate which has been procured by the petitioner clearly prescribes that it cannot be used to avail any reservation in the State of M.P.

**12]** Heard counsel for the parties and perused the record.

**13]** From the record, this Court finds that the petitioner belongs scheduled caste category and belongs to Jatav caste, which is specified as Scheduled Caste in the State of M.P. at Serial No.14 of The Constitution (Scheduled Castes) Order, 1950 and similarly Jatav caste is also specified as Scheduled caste in the entire State of U.P. at Serial No.24 of the of the Schedule appended to the Constitution (Scheduled Castes) Order, 1950. It is also not disputed that the petitioner was issued a caste certificate dated 10.07.2003 by Tehsildar, Ghaziabad (U.P.) that she belongs to Jatav caste. The petitioner's case is that her father Shri Suresh Chand was initially appointed on the post of Hindi Translator in the services of Government of India, Ministry of Home, Department of census in the year 1983 and was posted at Bhopal [MP], where the petitioner was born in the year 1985, and from where she has also completed her entire education and has been issued a M.P. domicile certificate dated 15.06.2004, which is also placed on record as Annexure P/3. So far as the status of the petitioner's father is concerned, in the considered opinion of this court, he cannot be treated as a migrant as he was selected and appointed by the Central Government in the Census department at Bhopal, and did not come to Bhopal in search of his livelihood.

**14]** It is also found that the advertisement was issued on 19.01.2008 by the respondent No.1 *Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd* along two power distribution companies for the post of Accounts Officers. The petitioner has relied upon condition No.2 of the General Conditions of the aforesaid advertisement in which it is provided as under:-

*“The reservation of posts meant for SC/ST/OBC shall be applicable only for the candidates of Madhya Pradesh Domicile. Such candidates should submit: a proof of Domicile in MP State”.*

and in Clause No.4 of the said advertisement, which refers to “How to Apply” it is provided that SC/ST and OBC candidates need to submit the photocopy of caste certificate along with the printout of the Form. Apparently, there was no such condition appended that the caste certificate must be issued by a competent authority of the Govt. of M.P. Thus, the petitioner having fulfilled all the aforesaid conditions, applied for the same and was also got selected and a call letter was also sent to her on 17.03.2008. Subsequently, she was appointed on the post of Executive Trainee (Accounts), and also appeared in the interview, and as per the letter of interview, the petitioner was required to bring her caste certificate issued by the Competent Authority and the M.P. domicile certificate and as the petitioner submitted her caste certificate and also the domicile certificate, she was issued the appointment letter on 29.03.2008, without raising any objections as to her caste certificate. Subsequently, she was appointed on the post of Accounts Officer and after completing the period of probation in which also her caste certificate was verified, she was confirmed on the post of Accounts Officer on 15.07.2010. Subsequently, she was also given the charge of higher post of Deputy Director in Finance Section of the Corporate Office at Indore.

**15]** It is also found that in the final gradation list also the petitioner has been shown to be of Schedule Caste category and she has already satisfactorily discharged her duties till 16.04.2015, when a show cause

notice was issued to the petitioner call upon her to offer an explanation as to why action be not taken against her for securing appointment on the post of Account Officer *dehors* the Rules of reservation despite her ineligibility. In the charge-sheet the solitary charge framed, was in the following manner:-

“**आरोप:-** " यह कि आपके द्वारा वर्ष 2008 में म.प्र. पूर्व क्षेत्र विद्युत वितरण कंपनी लिमिटेड , जबलपुर द्वारा आयोजित लेखाधिकारी की भर्ती के समय तहसीलदार जिला गाजियाबाद , उत्तरप्रदेश द्वारा जारी किया गया जाति प्रमाणपत्र प्रस्तुत कर म.प्र. राज्या में आरक्षण की सुविधा का लाभ प्राप्त किया गया। तदोपरांत इस कार्यालय के आदेश के अप्रनि/पक्षे/01/स्थात-1/09/471 दिनांक 08.08.08 आपको आरक्षित वर्ग (अ.जा.) लेखाधिकारी के पद पर नियुक्त किया गया। आपके द्वारा प्रस्तुत जाति प्रमाणपत्र पूर्ववर्ती म.प्र.रा.वि.मं. के परिपत्र क्रं. 102 जबलपुर दिनांक 19.12.1996 एवं म.प्र. शासन के आरक्षण नियमों के अनुरूप नहीं है एवं म.प्र. के सक्षम प्राधिकारी द्वारा जारी किया गया नहीं है। उपरोक्त. से यह स्पष्ट है कि आपको आरक्षण नियमों के अंतर्गत प्रारंभिक नियुक्ति की पात्रता नहीं आती है। अत- आपके विरुद्ध म.प्र. सिविल सेवा नियम 1966 के नियम 14 में निर्धारित जांच प्रस्तावित की जाती है।”

**16]** The respondents passed the punishment order on 06.01.2018 imposing the major penalty of dismissal of the petitioner from service, and the Appeal preferred by the petitioner was also rejected by the respondent No.1 Appellate Authority on 04.02.2020.

**17]** In the considered opinion of this court, the impugned order cannot be countenanced in the eyes of law inasmuch as it has travelled beyond the conditions of the advertisement which clearly prescribes that the reservation of posts meant for SC/ST & OBC shall be applicable only for the candidates of Madhya Pradesh domicile and such candidates should submit a proof of Domicile in M.P. State,

apparently, there was no such condition stipulated in the advertisement that the candidates must possess the caste certificates issued by the competent officer of the State of M.P. only. So far as the domicile certificate of the petitioner is concerned, the same has been issued by the competent officer and cannot be doubted. It is also found that so far as the advertisement is concerned, for the sake of convenience, the note appended below the company wise vacancy position is being again reproduced as under:-

- “1. The number of posts is subject to change as per requirement.
2. The reservation of posts meant for SC/ST & OBC shall be applicable only for the candidates of Madhya Pradesh Domicile. Such candidates should submit proof of Domicile in M.P. State.”

**18]** So far as the General Conditions are concerned, Clause No.2 again reads as under:-

- “2. The reservation of posts meant for SC/ST & OBC shall be applicable only for the candidates of Madhya Pradesh domicile. Such candidates should submit a proof of Domicile in MP State.”

**19]** Whereas the respondents have relied upon the call letter for personal interview in which the following conditions have been mentioned:-

“You have a valid caste certificate (for SC/ST/OBC categories) issued by Competent authority and M.P. domicile certificate (If you belong to Madhya Pradesh in case of SC/ST/OBC)

or

If it is found that you are not possessing/having requisite degree, percentage of marks in degree course, age limit, caste & domicile certificate (in case of reserved categories), your candidature shall be cancelled and no claim on this account shall be entertained.”

**20]** A perusal of the aforesaid conditions of the advertisement and the call letter leave no manner of doubt that it was not the condition precedent that the candidates must have the caste certificate issued by the Competent Officer of State of M.P. only, and in fact what was mandated was that the domicile certificate must be issued by the competent officer of the State of M.P. This fact also becomes more clear if we see the subsequent advertisement dated 13.07.2018 (Annexure P/27) for recruitment of Account Officer (D) Batch 2018 on Regular basis issued by the respondents in which regarding reservation, the following conditions are mentioned:-

“3.5 All these reservations will be applicable only to the candidates having M.P. Domicile.”

**And**, under clause “How to Apply”, sub-clause (v) reads as under:-

“(v) Caste certificate (Permanent), (in case of reserve category candidates) issued by Sub Divisional Officer (SDO) of M.P.”

(emphasis supplied)

**21]** Meaning thereby that the respondents, after coming to know that such discrepancy has arisen in the earlier advertisement where they could not mention that the caste certificate is also required to be issued by the Sub Divisional Officer (SDO) of M.P., have added the condition, which clearly demonstrate that in the earlier advertisement, the aforesaid condition was not mentioned. In such circumstances, this Court has no hesitation to hold that the respondents have relied upon a condition, which was not present in the advertisement dated 19.01.2008, which did not prescribe that the caste certificate has to be issued by the Sub-Divisional Officer of M.P. and it is trite law that the

conditions of an advertisement cannot be changed after it has been issued and acted upon. Whereas the domicile certificate issued to the petitioner is not under cloud that she is a domicile of State of M.P. only.

22] This Court is also of the considered opinion that even assuming if the respondents were of the view that the caste certificate submitted by the petitioner ought to have been issued by the SDO of the State of M.P. only (which otherwise they could not have, regard being had to the advertisement's terms and conditions), in that case also, they were required to apprise the petitioner of the aforesaid fact then and there only, at the time when she presented all her documents before the interview, and also when her documents were verified by the respondents before her appointment, as it is apparent from the various documents filed on record by the petitioner that she was a bright student and had already been selected for various other posts in various departments/Bank etc., meaning thereby that she was not at the mercy of the respondents and could have opted for any other job already in her lap. Thus, by issuing the show cause notice after a period of around 8 years, the respondents have clearly deprived the petitioner to avail the other employments, which were readily available to her in the year of 2008 itself. In such circumstances, the doctrine of *promissory estoppel* would come into play and the respondents are restrained from raising such objection after so many years when the petitioner, acting upon the advertisement, by never suppressing any information, got the appointment after following rigor of the selection process, and thus she cannot be left to suffer for life

for no fault of her own and is entitled to protection under Art.14 and 21 of the Constitution of India.

23] So far as the decisions relied upon by the counsel for the respondents are concerned, in the case of *Action Committee* (supra), it was a case of status of a migrant in another State which is not the case in hand and, in the case of *Marri Chandra Shekhar Rao* (supra), it was a case of a Scheduled Tribe MBBS student who was from the State of Andhra Pradesh, whose parents migrated to the State of Maharashtra, but in both these cases, there was no such advertisement as in the present case, and there was no such delay in taking the action as in the present case, thus, both the cases are distinguishable and are of no avail to the respondents.

24] In such circumstances, **the impugned orders dated 06.01.2018 and 04.02.2020 being bad in law, are hereby quashed**, and the respondents are directed to reinstate the petitioner forthwith in service by granting her all consequential and monetary benefits including arrears of salary and allowances for the period during which she remained out of employment. The amount of arrears is required to be paid to the petitioner with the interest @ 7% per annum and if the same is not paid within a period of three months, the arrears shall carry interest @ 12% per annum.

25] With the aforesaid, writ petition is *allowed* and *disposed of*.

**(SUBODH ABHYANKAR)**  
**JUDGE**