



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11331 OF 2024

Maharashtra Development Services
Gazetted Officers Association
Reg. No./RGA/1995/CR/10/15/16-A
dated 23rd June, 1995
E-mail ID : mdssanghtana@gmail.com
through its Member-
Shirish Dattatraya Bansode
Age 45 years, Occ. Service
(Addl. CEO)
Zilla Parishad, Jalna
Tq. District Jalna

...Petitioner

versus

1. Union Public Service Commission
Through its Secretary,
Dholpur House, Shahjahan Road
New Delhi 110 069
2. Department of Personnel and
Training, Ministry of Personnel,
PG and Pensions,
Government of India
North Block, New Delhi 110 001
3. The State of Maharashtra
Through its Chief Secretary
Mantralaya, Mumbai 400 033
4. The State of Maharashtra
Through the Additional Chief
Secretary (Seva) GAD department
Mantralaya, Mumbai 400 032
5. The State of Maharashtra
Through the Principal Secretary,
Rural Development Deptt.
Construction Building 25,
Marzban Path, Fort, Mumbai 1.

6. Ravindra Pandurang Pawar,
Age 43 years, working as Private Secretary
In the office of the Minister
Food and Drug Administration
Office Address 605, Annex Building
Mantralaya, 6th floor,
Mumbai 400 032
R/o. At Flat No.304, "Tushar"
Building, behind Govt. Law College
'A' Road, Church Gate,
Mumbai

...Respondents

.....
Mr. Ajay S. Deshpande, advocate h/f Mr. V.V. Gujar, advocate for the
petitioner
Mr. A.G. Talhar, D.S.G.I. for respondent Nos. 1 and 2.
Mr. V.M. Kagne, A.G.P. for respondent Nos. 3 to 5
Mr. P.K. Dhakephalkar, senior advocate i/b Mr. Sushant V.Dixit for
respondent No.6.

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**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATED : 14 OCTOBER 2024**

JUDGMENT (MANGESH S. PATIL, J.) :-

Heard.

2. Rule. It is made returnable forthwith. Mr. Talhar, learned
D.S.G.I. waives service for respondent Nos. 1 and 2, Mr. Karlekar,
learned A.G.P. waives service of respondent Nos. 3 to 5 and Mr.
Dixit, learned advocate waives service for respondent No.6.

3. At the joint request of the parties, the matter is heard finally
at the stage of admission.

4. The petitioner is an approved association of Gazetted Officers of Maharashtra Development Services (for short "M.D.S."). By filing Original Application before the Central Administrative Tribunal, it is seeking following reliefs:-

- "a. Original application may kindly be allowed.
- b. The Hon'ble Tribunal be pleased to stop the process of promotion to IAS Cadre from among the candidates of Maharashtra Revenue Service (Deputy Collector Cadre) as these services are not approved as State Civil Service/Services by Central Government in accordance with the Rule 2(j)(ii) of the Indian Administrative Services (Appointment by Promotion) Regulations, 1955.
- c. The Hon'ble Tribunal be pleased to direct the respondent Nos. 1 and 2 to send back the proposal forwarded by State Government for promotion to IAS Cadre from among the candidates of Maharashtra Revenue Services (Deputy Collector Cadre) as these services are not approved as State Civil Service/Services by Central Government in accordance with the Rule 2(j)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and to stay the meeting of SGM organized on 30.08.2024 by respondent No.1 for promotion to IAS Cadre for vacancies as on 01.01.2023.
- d. The Hon'ble Tribunal be pleased to direct the respondents to get approved State Civil Service/Services by Central

Government in accordance with the Rule 2(j)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and as per decision of Madras High Court in the Writ Petition No. 17643 of 2012 and considering the equivalence granted to Maharashtra Development Services in Maharashtra Gazette date 11 July, 1974.

- e. That this Hon'ble Tribunal be pleased to direct these Respondents to declare Maharashtra Development Service as State Civil Service.
- f. The Hon'ble Tribunal be pleased to quash and set aside the impugned Government Gazette Notification No. RNI No. MAHBIL/2009/31745, Extraordinary No.62, authorized Publication dated 09.07.2019 issued by General Administration Department, Government of Maharashtra, where Maharashtra Development Services are declared as Non State Civil Service which is preventing including names of officers from Maharashtra Development Services to be included in the list of seniority prepared for promotion to IAS cadre from among the candidates declared as State Civil Service on the ground of same being violative of Articles 14, 16 and 21 of the Constitution of India, 1950.
- g. The Hon'ble Tribunal be pleased to direct the respondents to add the names of members of Maharashtra Development Gazetted Officers Association in the seniority list prepared/being prepared for promotion to IAS Cadre for the vacancies as on 01.01.2023 as per the respective seniority and direct Respondent Nos. 2 and 3 to send

proposal for promotion to IAS Cadre to Respondent Nos.1 and 2 as per the directions given by Hon'ble High Court of Bombay, Bench at Aurangabad in the writ petition No. 6719 of 2024 order dated 08.07.2024.

- h. Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.
- l. Any other suitable and equitable relief, to which the applicants are eligible and entitled to, and this Hon'ble Tribunal feels it appropriate, may kindly be granted in their favour."

5. By way of interim relief, the petitioner prayed for withholding the process of promotion and the meeting of the scrutiny committee, which was to be held on 30.8.2024, by the Union Public Service Commission (U.P.S.C.) for promotion to I.A.S. cadre, for the vacancies as on 01.01.2023.

6. The whole emphasis of the petitioner and the learned advocate Mr. Deshpande, is on the fact that as per the Indian Administrative Services (Appointment by Promotion) Regulations, 1955, in the light of the definition contained in clause 2(1)(j)(ii), the 'State Civil Services' means any service or services approved for purposes of the Recruitment Rules by the Central Government in

consultation with the State Government, a member of which normally holds, for the purposes of revenue and general administration, charge of a sub-division of a district or post of higher responsibility. The petitioner's members though are regarded as M.D.S., they discharge the same duties and responsibilities as are being discharged by the persons appointed as Deputy Collectors, however, though Deputy Collectors are being considered for promotions to the Indian Administrative Services cadre under the quota reserved for State Civil services, the petitioner's members are being discriminated against. Mr. Deshpande would submit that even there is nothing to demonstrate that in accordance with the Indian Administrative Services Recruitment Rules, 1954 (hereinafter "the Rules of 1954"), under Rule 2(j)(ii), the services of the Deputy Collector have been approved by the Central Government in consultation with the State Government, still the Deputy Collectors are being considered on the premise that they are from State Civil Services. The members of the petitioner, who are considered as M.D.S. are facing discrimination.

7. Mr. Deshpande would submit that this Court in writ petition No. 6719 of 2024, by order dated 08.07.2024, had directed the original applicant, who was also from M.D.S. category to decide her Original application finally. For non cooperation by the State and the Union of India, the Tribunal could not decide that original application

expeditiously and the petitioner, being an association, had no alternative but to press for interim relief which has been rejected by the Tribunal by the order under challenge.

8. Mr. Talhar, the learned D.S.G.I. would submit that the respondent Nos. 1 and 2 would have no role till the time the State Government does not initiate any process for including even the officers from M.D.S. for being considered under the Rules, as State Civil Servant.

9. The learned senior advocate Mr. Dhakephalkar, would submit that the petitioner, under the garb of taking up the common cause for its members, is substantially claiming the same reliefs as are being claimed by the individual applicant, who was before this court in writ petition No. 6719 of 2024 has failed to obtain a similar interim relief. It is obstructing the process being undertaken for grant of promotions to the I.A.S. cadre from the State Civil Services quota, as per the Rules and Regulations. He would submit that even the applicant in her original application was relying upon the copy of communication addressed on behalf of the petitioner association to the State Government raising the same issue. He would submit that in spite of being aware about this court having already issued directions for expeditious final disposal of the original application No.

284 of 2024, preferred by that individual, the attempt by the petitioner to seek interim relief by filing the original application and preferring this writ petition being enable to have it, is a clear abuse of process of law. There was no separate or independent cause for the petitioner and for this reason alone, the petition is liable to be dismissed at the threshold.

10. On merits, Mr. Dhakephalkar would submit that admittedly, as per the Rules of 1954 and the Regulations of 1955, only the State Civil Service employees are entitled to be considered for promotion to the Indian Administrative Services in the requisite quota. When admittedly, the members of the petitioner are M.D.S., they are not entitled to be considered for promotion through that quota, till the time their services are not approved by the Central Government in consultation with the State Government. When admittedly, there is no such approval, the petitioner's employees being not eligible at all, cannot be allowed to obstruct the process being undertaken for grant of promotions.

11. So far as the aspect of discrimination between the petitioner's members who are from M.D.S. and the Deputy Collectors, who are being considered as State Civil Servants, who are eligible for promotion under the Rules of 1954 and Regulations of 1955,

Mr. Dhakephalkar, would submit that the Deputy Collectors are being considered as belonging to State Civil Services, eligible for being promoted to the I.A.S. cadre from the quota since inception when the rules and the regulations have come into being. This being a practice followed for decades together, insistence of the petitioner that there should be some tangible material to demonstrate that even the Deputy Collector's service was approved by the Central Government in consultation with the State Government cannot be considered. The fact remains that the petitioner's members are not the Deputy Collectors and irrespective of the stand of the petitioner of there being equivalence between the M.D.S. and Deputy Collector, till the time, the former are not approved by the Central Government in consultation with the State Government, no fault can be found with the order of the Tribunal under challenge. He would submit that in fact even while passing the order under challenge, the Tribunal has referred to its decision on a similar request of the original applicant, which was challenged before this Court in writ petition No. 6719 of 2024 and by order dated 08.07.2024 wherein, the original application before the tribunal was merely expedited.

12. We have considered the rival submissions and perused the papers. Irrespective of the fact whether the petitioner's members have genuine case on the ground of discrimination between them

and the Deputy Collectors, admittedly, the M.D.S. has never been approved by the Central Government in consultation with the State Government as feeding cadre by following Rules of 1954 and Regulations of 1955. Therefore, the petitioner's members would not be eligible for being considered in the State Civil services quota, in the appointments of Indian Administrative Services. This is what precisely has been considered and rightly so, by the Tribunal while refusing the interim relief.

13. Besides, as can be discerned, the original application No. 284 of 2024 was filed by the person who was from M.D.S. cadre, raising the same issues as are being raised by the petitioner association. It does not appear that the petitioner association is oblivious of the order passed by the Tribunal in that matter refusing interim relief. It is also highly improbable that it is not aware even about that applicant having challenged the order of the Tribunal before this Court in writ petition No. 6719 of 2024 and this court having dismissed that petition and had directed the original application to be decided finally.

14. Even if it is assumed, as is being submitted by Mr. Deshpande, that the State did not cooperate the Tribunal in early final disposal of the original application, filing another original application

and seeking same interim relief cannot be countenanced *albeit*, due to some supervening event of conduct of selection committee meeting on 30.8.2024, which the present petitioner prayed to be stayed by way of interim relief, was subsequently conducted interregnum.

15. In the light of above, when the issue even in respect of grant of interim relief, has already been considered by this Court in writ petition No. 6719 of 2024, in the matter of similarly placed individual from M.D.S., as is being submitted by Mr. Dhakephalkar, the petitioner has been abusing the process of law.

16. No interim relief can be granted as is being claimed, till the time there is no adjudication on the petitioner's claim, seeking M.D.S. to be considered on par with the Deputy Collectors as belonging to State Civil Services as defined under Rule 2(j)(ii) of the Rules of 1954. The Tribunal has not committed any error in passing the order under challenge thereby refusing interim relief.

17. The petition is dismissed.

18. Rule is discharged.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL , J.)