

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****Writ Petition NO. 4078 OF 2015**

The State Of Maharashtra, ...Petitioners
Vs
Shri. Ashok Laxman Sawant & Ors. ...Respondents

WITH**Writ Petition NO. 8919 OF 2014**

Pradip Murlidhar Sonawane ...Petitioner
Vs
Government Of Maharashtra & Ors. ...Respondents

WITH**Writ Petition NO. 10877 OF 2014**

Mr. Shivdatta Ganpat Malandkar ...Petitioner
Vs
The Additional Chief Secretary & Ors. ...Respondents

WITH**Writ Petition NO. 8843 OF 2014**

Shri. Suresh Baburao Kandekar & Ors.Petitioners.
Vs.
The State of Maharashtra & Ors.Respondents.

WITH**Civil Application in WP NO. 562 OF 2016****IN****Writ Petition NO. 4078 OF 2015**

Shri Nisar Abdul Shaikh & Ors. ...Applicants.
Vs
The State Of Maharashtra & Ors. ...Respondents

WITH
Civil Application in WP NO. 1074 OF 2015
IN
Writ Petition NO. 4078 OF 2015

Vasant Bajirao Kesarkar & Ors. ...Applicants.
Vs
Government Of Maharashtra & Ors. ...Respondents

WITH
Civil Application in WP NO. 1593 OF 2015
IN
Writ Petition NO. 4078 OF 2015

Vijay Tryambak Nemade & Ors. ...Applicants.
Vs
Government Of Maharashtra & Ors. ...Respondents

WITH
Civil Application in WP NO. 1721 OF 2015
IN
Writ Petition NO. 4078 OF 2015

Pradip Vasantrao Patil & Ors. ...Applicants.
Vs
Government Of Maharashtra & Ors. ...Respondents

WITH
Civil Application in WP NO. 1922 OF 2016
IN
Writ Petition NO. 10877 OF 2014

Mr. Sanjay Balaji Shinde & Ors. ...Applicants.
Vs
Mr. Shivdatta Ganpat Malankar ...Respondents

WITH
Civil Application in WP NO. 2552 OF 2015
IN
Writ Petition NO. 4078 OF 2015

Subhash Raosaheb Khandagale & Ors. ...Applicants.
Vs
The State Of Maharashtra & Ors. ...Respondents

WITH
Civil Application NO. 2080 OF 2016 IN WP/4078/2015

WITH
Civil Application No. 3024/2016 in WP/4078/2015

WITH
CIVIL APPLICATION NO. 3203 OF 2015
IN
Writ Petition NO. 10877 OF 2014

Mr. Shivdatta Ganpat Malandkar ...Applicant.
Vs
The Additional Chief Secretary & Ors. ...Respondents

Mr. Abhinandan B. Vagyani, Government Pleader a/w Mr. Chandrakant P. Yadav, Asstt. Govt. Pleader, Advocate Ms. Tintinaka Hazarika for Petitioner in WP No. 4078 of 2015 and for the Respondents in WP Nos. 8919 of 2014, 8843 of 2014 and 10877 of 2014 and in all Civil Applications.

Mr. Subhash V. Gutte for the Applicant in CAW 1074 of 2015, CAW 1721 of 2015, CAW 2552 of 2015 & CAW 1593 of 2015 in WP 4078 of 2015.

Mr. Ajit Pitale for applicant in CAW 2080 of 2016 in WP No.4078 of 2015.

Mr. Ravindara S. Pachundkar for applicant in CAW 3024 of 2016 in WP 4078 of 2015.

Mr. R.M. Kelge for the Petitioner in WP No. 8843 of 2014.

Mr. Sandeep Dere for the Petitioner in WP No. 8919 of 2014.

Mr. G.S. Godbole a/w Mr. G.M. Savagave for the Petitioner in WP No. 10877 of 2014.

Mr. Prashant R. Suryawanshi for applicant in CAW 1922 of 2016 in WP 10877 of 2014.

Dr. Ramdas Sabban Spl. Counsel a/w AGP for the Respondents Authorities in WP No. 8919 of 2014, WP 8843 of 2014 & WP 10877 of

2014.

Mr. P.A.Pol i/by Pol Legal Juris for Applicant in CAW 562 of 2016 in WP 4078 of 2015.

**CORAM : ANOOP V. MOHTA AND
A.S. GADKARI, JJ.**

**DATE : 20 DECEMBER 2016 AND
21 DECEMBER 2016**

ORAL JUDGMENT (PER ANOOP V. MOHTA, J.):

Rule. Rule made returnable forthwith.

2 All these matters heard together finally, as the issues based upon the facts and circumstances and so also the prayers are similar in nature, therefore, this common Judgment.

3 The State Government in Writ Petition No. 4078 of 2015 has challenged the common Judgment and order passed by the Maharashtra Administrative Tribunal (for short, “*Tribunal*”) dated 9 July 2014, whereby, Original Application Nos. 767 of 2013 and 284 of 2014 filed by the Respondents (Original Applicants) have been allowed. The challenge is also made to Judgment and Order dated 21 August 2014 passed in Review Applications No. 21 of 2014 and 24 of 2014. The operative part of the common order is as under:-

*“11. Having regard to the aforesaid facts and circumstances, Rule 3(a) as amended by order dated 29.6.2013 is quashed as being arbitrary and against the principles of equality enshrined in Articles 14 and 16 of the Constitution of India. As a result, the appointment to the post of PSI from 25% quota for promotion can be made as per unamended Rule 3(a). **However, promotion should be made only from the post of ASI and not from the post of Havaladar.** It is also held that the Departmental Qualifying Examination is just that i.e. Qualifying Examination. Any Police personnel from the level of Police Constable to ASI may appear for the same and once qualified would be eligible for being considered for promotion on acquiring necessary seniority after promotion to intermediate posts. Original Application is accordingly disposed of with no order as to costs.”*

(Emphasis added)

4 The Respondents-Original Applicants have also made restricted (emphasis portion) challenge to the impugned order.

5 The basic events of these case are as under:-

On 20 July 1995, the State Government (“*the State*”) framed the Recruitment Rules for regulating recruitment to the post of Sub-Inspectors of Police in the “*Police Force*”, in exercise of the powers conferred by clause (b) of Section 5 of the Maharashtra Police Act, 1951. On 29 June 2013, the State issued an impugned order in exercise of the powers conferred by clause (b) of Section 5 of the

Maharashtra Police Act, 1951, whereby amended rule 3(a) of the Police Sub-Inspector (Recruitment) Rule 1995, (the amended Rule). On 21 August 2014, Original Application Nos.767 of 2013 and 284 of 2014 (O.As.) were filed by one Ashok Laxman Sawant and Anr. and Raju Shivshankar Deshpande and 26 Ors. before the Tribunal, Mumbai and challenged Order dated 29 June 2013 passed by the State amending Rule 3(a) of the P.S.I. (Recruitment) Rules, 1995. The same was declared bad in law by the Tribunal. On 21 August 2014, Review Application No. 21 of 2014 in O.A. Nos. 284 of 2014, with Review Application No. 24 of 2014 in O.A. No.767 of 2013 (R.As.) were dismissed by the Tribunal, Mumbai. On 18 September 2014, Pradip Murlidhar Sonawane filed Writ Petition No. 8919 of 2014 before the High Court, Mumbai against the order passed by the Tribunal, Mumbai in the matter of O.A. and R.A. On 9 October 2014, an interim order was passed by the High Court in the Writ Petitions. On 12 January 2015, another interim order was passed by this High Court in W. P. Nos. 8919, 8843 and 10817 of 2014. On 5 February 2015, the aforementioned W.Ps i.e. 8919, 8843 and 10817 of 2014 were heard by the High Court, Mumbai and the interim order was passed. On 23 March 2015, a reply in Writ Petition No. 8919 of 2014 filed on behalf

of the D.G.P., M.S., Mumbai. On 8 April 2015, the Writ Petition No. 4078 of 2015 was filed by the State challenging order dated 9 July 2014 and 21 August 2014 in the O.As. And R.As.

6 There is a challenge and a counter challenge to the impugned order. So far as the decision on the impugned rule is concerned, the Original Applicants are supporting the impugned order. The interveners in Application Nos. 2552 of 2015, 1074 of 2015, 1721 of 2015, 1593 of 2015, 562 of 2016 and 3024 of 2016 filed in the Writ Petition No. 4078 of 2015 of the State, however, supporting the amended action/Rule 3(a) and all consequential actions arising out of the same. The Respondents-Original Applicants and the Intervenors are basically Police Constable, Police Naik, Police Head Constable and Assistant Sub-Inspector. In some Petitions the challenge is made to the Rule by the Writers. Most of the intervenors are Head Constables.

Impugned amended rules:-

7 The amended rule 3(a) of the Police Sub-Inspector (Recruitment) (Amendment) Rules, 2013, is reproduced:-

“ORDER

Home Department, Mantralaya
World Trade Centre, Centre-I,
Cuffe Parade, Mumbai-400 005.
Date: 29th June, 2013.

**Maharashtra
Police Act**

No. Police-1113/CR-440/Pol-5A.- In exercise of the powers conferred by clause (b) of section-5 of the Maharashtra Police Act (XXII of 1951), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules further to amend the Police Sub-Inspector (Recruitment) Rules, 1995 as follows, namely-

1. These rules may be called the Police Sub-Inspector (Recruitment) (Amendment) Rules, 2013.
2. In rule 3 of the Police Sub-Inspector (Recruitment) Rules, 1995 for clause (a), the following clause shall be substituted:-

“(a) by promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the post of Police Constable or Police Naik or Police Havaldar or Assistant Police Sub-Inspector in the Police Force having not less than ten years continuous regular service from the date of appointment in the Police Force and who qualify in the departmental examination held by the Director General of Police as per the Examination Rules prescribed by the Government, by special or general order, from time to time.”

By order and in the name of the Governor of Maharashtra.

Sd/-
(Medha Gadgil)
Principal Secretary (Appeal and Security)”

8 Unamended rule 3(a) of “*PSI Recruitment Rules, 1995*” is
as under:-

“3(a) by promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the posts of Police Havaladar & Assistant Police Sub-Inspector in the Police Force who have completed not less than five years continuous regular service or seven years broken service and who qualify in the departmental examination held by the Director General of Police....”

Hierarchy of the cadre of Police Personnel in question:-

9 The controversy so revolved in these Petitions, therefore, required to be considered from the point of view of virus/validity of the amended Rule so framed by the State and related aspects. There is no issue with regard to the hierarchy of cadre/employees.

“Step by Step Posts and Regular Promotions in Police Force-(From bottom to top)

“Asstt. Sub Inspector (ASI)

Head Constable (HC)

Police Naik (PN)

Police Constable (PC)

- 1) A personnel joined in Police Force as a “PC” at initial stage and can get promotions as per above up to the age of 58 yrs as per below provisions.
- 2) GAD circular No. SRV-1088/109/XII, Dt. 25.8.1988 & No. SVR-1088/109/P. No.1/88/XII, Dt. 4.9.1990
- 3) Minimum 3 yrs. Of continuous service as a condition for promotion to higher posts.”

Recruitment for the post of Police Sub-Inspector

I	Direct Recruitment Exam. held by MPSC (Competitive)	50%	Open for all PC can be eligible till at the age of 28 yrs. & 31 yrs. for reserved category.
II	Direct Deptt. Exam. held by MPSC (Competitive)	25%	PC & PN eligible till at the age of 35 yrs. & 40 yrs. for reserved category.
III	Qualifying Deptt. Exam. held by DGP	25%	HC & ASI Who hold the post of HC for 5 yrs continuous and 7 yrs broken service Over aged candidates. Limit 3 Chance for open and 4 chance for reserved category.

The present Provision for Qualifying Departmental Examination is not in issue.

- *G.R. No. PSB. 0390/CR-408/Pol.5, Dated 5th July, 1994;*
- *Police Sub-Inspector (Recruitment) Rules, 1995, Un-amended rule 3(a);*
- *Bombay Police Manual Vol. I, Rule No. 180 (1) & (2) and;*
- *Police Manual Part I, Rule No.90.”*

Relevant provisions as referred-

10 Admittedly, the appointments of the police Constables are made as per the provisions of the Police Act, respective rules and circulars made there under. The other connected rules and regulations, which the counsel have relied and referred are-

- The Maharashtra Government Rules of Business General Administration Department, and the Instructions issued there under. Relevant Rules 9 , 10 and 13 are as under:-

“9. All cases referred to in the Second Schedule shall be brought before the Council-

(i) by the direction of the Governor under Clause © of Article 167;

(ii) by the direction of -

(a) the Chief Minister; or

(b) the Minister-in-charge of the case with the consent of the Chief Minister;

Provided that, no case in regard to which the Finance Department is required to be consulted under

rule 11 shall, save in exceptional circumstances under the directions of the Chief Minister, be discussed by the Council unless the Finance Minister has had opportunity for its consideration.”

“10. (1) Without prejudice to the provisions of rule 8, the Minister-in-charge of a Department shall be primarily responsible for the disposal of the business appertaining that Department or part of the Department.

(2) Every Minister, every Minister of State, every Deputy Minister and every Secretary shall transmit to the Chief Minister all such information with respect to the business of the Government as the Chief Minister may from time to time require to be transmitted to him.”

“13. Every order or instrument of the Government of the State shall be signed either by a Secretary, an Additional Secretary, a Joint Secretary, a Deputy Secretary, an Under Secretary or an Assistant Secretary or such other officer as may be specifically empowered in that behalf and such signature shall be deemed to be proper authentication of such order or instrument.”

Clause 12 and 23 of Second Schedule, framed under Rule 9, are also relevant.

11 The reference is also made to the provisions of the Maharashtra Police (Amendment) Ordinance of 2015 (amendment to the Maharashtra Police Act) and specifically clause 4(A), which reads thus:-

“(4A) “constabulary” means Police Constable, Police

Naik, Police Head Constable and Assistant Sub-Inspector”

thereby, the reference is also made to the Competent Authority, with regard to the Police personnel.

12 The Police Manual, and basically Regulations 56 (1), (2), (4) and (5) (Recruitment of Sub-Inspectors) are also referred.

13 Government Resolution dated 12 February 2013, is also referred to throw the light on the hierarchy and the power of the Competent Authorities to initiate action and/or to take steps against the concerned officers, based upon their hierarchy.

14 The definition of “Police Force” as defined under the Police Sub-Inspector (Recruitment) Rules, 1995 reads thus-

“(e) “Police Force” means the Police Force of the Governments of Maharashtra.”

15 The Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 also read and referred to submit their respective submissions.

16 Section 156 of the Maharashtra Police Act, as relevant is reproduced as under:-

“156. Rules and order not invalidated by defect of form or irregularity in procedure

No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act or of any rule made under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.”

17 The definition of “Rule” as defined under Section 21 of the General Clauses Act 1897, as applicable to the Bombay, which is *pari-materia* and reproduced as under, also referred-

“Rule: shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment.”

18 Both the parties have placed reliance on their respective Judgments, apart from the provisions of Rules so referred above, on the various aspects, including Rule making power, validity of Rule and aspects of promotions, based upon such rules. Some Judgments are also placed and cited to support their contention with regard to the statutory interpretation of Rules and Regulations and/or sub-ordinate

legislation.

The promotional right within the law-

19 There is no issue with regard to the power of the State to frame rule with regard to the promotion and/or related aspects, which required to be taken note of in such service jurisprudence. The Police personnel are fully aware of their entitlement based upon the appointment letters and the accepted terms and conditions of service of the relevant date/time. The promotion is always subject to the power and the rules and regulations and/or the circulars, if any, based upon the policy decision taken by the State, considering the scope, purpose and their requirement. This State exclusive domain, therefore, needs to be respected and accepted unless a case is made out, based upon the material placed on record that the State has acted highhandedly, arbitrarily, indiscriminately against the Constitutional provisions and the governing statute/provisions. The right of promotion, and/or to be considered for promotion, based upon the service conditions and the related rules and regulations, is always the issue in every State departments. The State's such decision, is always on a foundation of their departmental requirement to encourage

and/or assess the merits and demerits for future promotions. It is difficult for the Court to give particular guidelines and/or issue directions regulating the promotions. The scope and power of the Court in service jurisprudence is only to test, whether the State has acted while framing the promotion policy and/or making such rule, is against the constitutional provisions and/or in breach of any statute.

The Tribunal's power and jurisdiction-

20 The Tribunal is constituted under the provisions of Administrative Tribunals Act-1985 (“*The Act*”). The Supreme Court in *L. Chandra Kumar Vs. Union of India & Ors.*¹ has elaborated the scope and power of the Tribunal to deal with even the validity of service rules and regulations, if the case is made out. The right of individual employees and/or related dispute, falls within the ambit of the Act. The jurisdiction of the Tribunal being the original Court, for deciding such issues, based upon on the material and the facts placed on record. Therefore, we have to see the facts and the material which were placed before the Tribunal, when the challenge was raised to the validity of the amended rule.

1 (1997) 3 SCC 261

21 We are inclined to discuss these issues, as in service jurisprudence, it is necessary for the Tribunal to consider the facts and circumstances first, before going into the validity of the statute/rules.

The Constitution Bench of Supreme Court in *Naresh Shridhar Mirajkar*

*v. State of Maharashtra*², has observed as under :

“38 The argument that the impugned order affects the fundamental rights of the petitioners under Art. 19(1), is based on a complete misconception about the true nature and character of judicial process and of judicial decisions. When a Judge deals with matters brought before him for his adjudication, he first decides questions of fact on which the parties are at issue, and then applies the relevant law to the said facts. Whether the findings of fact recorded by the Judge are right or wrong, and whether the conclusion of law drawn by him suffers from any infirmity, can be considered and decided if the party aggrieved by the decision of the Judge takes the matter up before the appellate Court.

39 On this view of the matter, it seems to us that the whole attack against the impugned order based on the assumption that it infringes the petitioners' fundamental rights under Art. 19 (1), must fail.”

The Tribunal's power to entertain and/or to accept the constitutional challenge of the rules and regulations is not the issue, but the requirement is to consider such validity, as presumption is

2 AIR 1967 SC 1

always in favor of the constitutional validity of the statutes/rules, is the settled law. The burden of proof shifts upon basically on who raises such constitutional validity to show how the statute is bad in law on the specified proved material/data, covering Articles 14, 16 and others of the of the Constitution of India.

22 The Apex Court has provided the basic principles in *Cellular Operators Association of India and Ors Vs. Telecom Regulatory Authority of India and Ors.*³ and has dealt with in the matter of the Judicial Review of the sub-ordinate legislation and expressed as under:-

“34. In State of T. N. v. P. Krishnamoorthy (2006) 4 SCC 517, this Court after adverting to the relevant case law on the subject, laid down the parameters of judicial review of subordinate legislation generally thus: (SCC pp. 528-29, paras 15-16)

“15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a subordinate legislation can be challenged under any of the following grounds:

(a) Lack of legislative competence to make the subordinate legislation.

(b) Violation of fundamental rights guaranteed under the Constitution of India.

(c) Violation of any provision of the Constitution of India.

3(2016) 7 SCC 703

(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.

(e) Repugnancy to the laws of the land, that is, any enactment.

(f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules)."

In the present case, we have noted that no above ingredients have been made on facts and law, apart from no pleadings and supporting reasons for the same. In all, no case is made out of Judicial Review of the amended Rule, in question.

Qualifying Examination has been part of cadre for promotion-

23 In the case in hand, the Original Applicants appointee, 30 in numbers, have challenged the validity of the amended rule. In some Petitions, the Head Constables and Police Constables, who are appointed initially as unarmed Police Constables, were posted as Police Constables Writers, after passing the written examination and subsequently, promoted as Head Constables and writers on different dates. Other Applicants, after joining as Police Constable, promoted as Police Head Constables and ASI. Other Petitioners-interveners' are

in support of the amended rules, are Head Constables. The challenge to the amended rule, therefore, by these employees/Police Constables, in our view, ought to have been based upon the data and material, how they are actually affected and how it is taking away the rights of the promotion. There is no issue with regard to the recruitment to the post of Sub-Inspector of Police in ratio of 50:25:25, by direct recruitment, on the nomination of limited departmental competitive examination and/or by promotion of Head Constable and ASI based upon the Police Sub-Inspector (recruitment) Rules 1995. The qualifying departmental examination has been part of their promotion ladder at every point of time from the date of their basic appointment as a Police Constable itself. Therefore, whosoever had passed this examination and eligible for the respective consideration of promotion have been regularly considered according to the old rules.

No factual data made available to prejudice-

24 Admittedly, except by giving their respective submissions and the background of the rules and regulations, there is no data placed on record to show how actually the Petitioners are affected by the amended rules of promotions. It is only decided to give the

opportunity to all the concerned, including the Police Constable and Police Naik, which were admittedly not under the unamended Rules 1995. This inclusion for the first time by this amendment is the main bone of contention in the Petition.

25 No chart and/or material even read and referred and/or discussed by the Tribunal while deciding the validity of amended rule 3(a). Once the power of the State to frame rules and/or decide the policy to bring in some new mechanism to give importance to everyone from the respective class of the said cadre, keeping in mind the basic requirement of “Police force” in every related field, the validity of such rules therefore, ought to have been based upon the actual and proved data, material and the actual prejudice to the respective persons/parties. Admittedly, all the materials and data are missing in the present case.

26 The amended rule, permits to participate them in the qualifying examination, thereby treating all these Police Constables, Police Naik, Police Havaldar and Assistant Sub-Inspector of police, based upon the basic of, 10 years of continuous service, in their

respective cadre. However, this requirement is with a foundation that they will be in a position to appear in the qualifying examination, based upon which the department will consider to promote them to the post of PSI. However, this is again on a foundation of giving importance to the respective seniority, based upon the initial appointment as Police Constable. Therefore, even if all have appeared for the examination and/or passed the examination, but based upon the seniority, the department will promote them to the post. The plain rule as well as, the submission so made by the parties itself, shows that at this stage, there was no occasion to prepare the seniority list. The same was not at all published. The rule therefore, only permits the department/State to bring all these together and allow them to participate in the examination. Therefore, it is difficult to accept, the challenge when the rule was published, there was no data and/or material to justify the challenge raised to the constitutional validity of rule 3(a) in the background of settled service law of jurisprudence. The declaration that the amended rule is arbitrary, contrary to the provisions of law and the Act, including the observation that such rule violates the principle of equality by treating the Police Constable, Police Naik, Police Havaldar and ASI, as equal though were unequal,

is unacceptable.

27 The strength of the Police department with regard to the posts of P. S.I. are as under-

Category	Sanctioned Strength	Total Present			s .
		Enrolled on Gradation List of P.S.I.	Probationary P.S.I.	Total Present	
25% Promotees.	2422	258	00	258	2164*
25% Departmental Direct Nominees.	2422	1560	00	1560	0862
50% direct nominees.	4843	2711	986	3697	1146
Total P.S.I.	9687	4529	986	5515	4172

Seniors have participated and passed the qualifying examinations-

28 There is no specific challenge raised by the Police personnel, who are brought in, in rule 3(a) for the first time. The

same rules, by which they are brought in, in a given case and as there is no specific challenge raised, supports the class of senior employees who are willing to participate in the examination, as this amended rule permits all of them to appear. The other senior Police Constables, who have reached the respective stage, by passing the examinations, though based upon the earlier rules of 1995, have also participated in the recruitment process and in fact have been supporting the rules in every aspect. Merely because some Petitioners, minority in numbers, have raised the challenge, based upon the assumption and presumption, on vague and unclear pleadings and material, in our view, cannot be the test to decide the validity of the provisions by treating the same to be as arbitrary, unconstitutional and bad in law. We are inclined to observe that in a given case, if the case is made out, the tribunal and/or such authority, after considering the rival contentions of such affected persons, based upon the objected seniority list and if they are affected, would be decided for enforcing their individual rights.

Premature challenge-

29 Even if we consider the case of the Original Applicants as

they are supporting the orders passed by the Tribunal, it was difficult for the Court and/or for the Tribunal to direct the State to decide the seniority list and/or promotion list as admittedly even on the date of challenge, there was no case of preparing promotion list as the examinations were never held, as required under the amended rules. There was no question of setting aside any list of promotion. There was no question even to ask the department to promote anyone without conducting the examination without allowing the candidates to participate in the process.

The Tribunal has not considered actual data of examinations results and orders passed-

30 The submission is also made that all the candidates had appeared in the examinations, pending the Original Applications, and even on the date of order 9 July 2014, the results were already declared. This Court also by order dated 9 October 2014, passed in Writ Petition Nos.8843 of 2014 and 8919 of 2014, permitted the Havalgars, to appear in the examination and observed in paragraph No.6 as under:-

“6. We observe that the Havalgar would be entitled to *participate along with A.S.I. in the selection process for the post of P.S.I. under the unamended rule 3(a) of*

the said Rules. It is clarified, in view of the statement made by learned A.G.P., that the Hawaldar need not first be promoted as A.S.I. for participating in the selection process for the post of P.S.I. Obviously, it would be for the selecting authority to decide independently as to whether an applicant/ candidate is entitled to participate in the selection process being Hawaldar or A.S.I. The observations of the Tribunal to the effect that only A.S.I. can be promoted as P.S.I. and the promotional post for Hawaldar is A.S.I. and not P.S.I. made in the impugned order dated 9th July 2014 would not be operative.”

(Emphasis added)

The subsequent orders are passed by the Division Bench including the last order of 5 February 2015.

The Tribunal's wrong approach-

31 The Tribunal, therefore, was fully aware of the order passed by it whereby, all such Police personnel were permitted to appear in the examinations. There was no stay to the amended rule, at any point of time. The submission is made that all the Police Constables, who participated in the examinations, have been declared passed and therefore, they are now required to be regularized on the promotional post, based upon the seniority. The rules are clear on this issues.

32 The Tribunal, therefore, inspite of above background has passed the impugned order by declaring amended rule 3(a) as unconstitutional, being arbitrary and against the principle of equality under Articles 14 and 16 of the Constitution of India. It is further ordered that the appointment to the post of PSI from 25% quota for the promotion, can be made as per unamended rule 3(a). Having permitted the department to proceed with the examinations and in fact the examinations have been conducted, based upon the amended rule 3(a), but without observing anything on this aspect and without taking note of the data and the results of such examination, the Tribunal has passed the impugned order. The whole approach is wrong and impermissible.

The common challenge by both the parties-

33 The common challenges, which even the Respondents-Original Applicants have raised with regard to the observations in para 11 whereby, though there was no specific rule and/or circular, ordered that "*promotion* should be made only from the post of ASI and not from the post of Havaladar". The Original Applicants, therefore, are aggrieved by the same and so also the State, as the Tribunal

cannot direct and bring in some new rule, which was never contemplated, even by the State. The rule, if is declared ultra-virus, then there was no question of any leverage and/or interpretation and above observations as made in paragraph No. 11. Such finding, in our view, is not within the purview of power and the jurisdiction of the Tribunal.

The Tribunal order is difficult to implement-

34 The actual scenario now is that the candidates, who appeared in the examinations, have passed their respective examinations. The Respondent-Department required to consider the same, based upon the amended rules and the future action of promotion, but by the impugned order everything is disturbed and delayed and so also the future promotions. The Tribunal order, therefore, in our view, is difficult to implement, as nothing is observed about the earlier orders for those who appeared in the examinations. The consequential order is required to be passed to avoid the confusion and for proper implementation of the amended rules and earlier orders so passed even by the High Court.

First time issue of not placing the amended rules for approval of Legislative Council-

35 The new issue that the amended rule was never got sanctioned and/or approved from the legislative Council/Cabinet, which according to them is mandatory requirement of law. Admittedly, all these rules were never placed for such approval/sanction. The submission of the learned GP for the State that it is not the requirement in view of the specific nature of Post, in question. The submissions and counter submissions are made based upon the Judgments referring to the statutory interpretations and its related laws. The provisions of law, so referred, need no discussion, as the law with this regard is settled. However, this is always subject to the facts and the requirement of statutes. Admittedly, unamended 1995 rule, so framed earlier, was also never placed before the cabinet. There was no such challenge raised earlier. Every concerned have been acting upon the same since 1995.

No procedural irregularity- Amended rule is validly made-

36 The issue, that such amendment in pleading should be

allowed at this stage, in Writ Petitions, in the present facts and circumstances, we are not discussing further, as we have heard the parties on the issue by allowing the amendment. Those defective procedures, even if any, that itself cannot be the ground to declare the amended rule as invalid and/or bad in law. Section 156 of the Police Act as reproduced above, makes the position very clear, which provides in the background of this nature that the "*Rules and order not invalidated by defect of form or irregularity in procedure*". Section 156, in our view, has protected the situation even if any and in the present case, there is no case made out to accept this contention for the first time, though it was not the reason for the Tribunal to pass the order of declaring the said rule, bad in law.

Such procedure, even if any, is directory-

37 Even after reading rule 9 read with clause 23 of the Second Scheduled of Maharashtra Government Rules of Business General Administration Department dated 26 June 1975, in the background of added Section 4(A)-1 of the Maharashtra Police Act, 1951 dated 16 February 2015, whereby the definition of "constabulary" means the Police Constable, Police Naik, Police Head

Constable and Assistant Sub-Inspector, as elaborated, the amended rule cannot be stated to be bad in law or unconstitutional. It is clear that as per the rules all cases referred to in the Second Schedule required to be brought before the Council, which covers the proposal involving any important alterations in the condition of service of the members of any All India Service or the State Service or in the method of recruitment to the Service or post to which the appointment is made by the State. The amended rule, cannot be stated to be alteration of the conditions of the service to the respective position, to which the appointment is made. There is force in the contention that the posts of PSI group, non-gazette post and the appointing authority is not the State. It is as per the Maharashtra Police Manual Rule 56 which defined the “competent authority” for the posts which is Deputy Inspector General of Police. For want of contra material, we are inclined to accept the case/submission on behalf of the learned GP that the amended rules need not be placed before the Council of Minister or before the financial department as submitted by the Original Applicants. This is in the background, as already recorded referring to Section 21 of the General Clause Act, 1897, which mandates that power to issue, to include power to add to,

amend, vary or rescind notifications, orders, rules or bye-law. The power is also provided in the Maharashtra Government Rules of Business General Administration Department dated 26 June 1975, whereby the Minister-in-charge to take decision for the disposal of the business appertaining that Department, which in a given case, may include the amendment of the condition of service, which are not falling with the mandate of Rule 9 read with Clause 23 of the Second Schedule.

38 Rule 4 also provides that, the business of the Government shall be transacted in the Departments specified in the First Schedule and shall be classified and distributed between those Departments as laid down therein. Rule 7 and Rule 10 define the respective role of the Departments of Mantralaya. Therefore, taking overall view of the matter and considering the scheme and object of the Rules, including rule 10(1) of the Maharashtra Government Rules of Business General Administration Department dated 26 June 1975, the Minister-in-charge of a Department of the State is empowered to give sanction to the amendment to the amended Rule 3(a) of the PSI (Recruitment) Rules, 1995. Such approval of the Minister was obtained before the

amendment dated 29 June 2013. Therefore, there is no force in the contention so raised in this regard.

39 We are inclined to accept the submissions so made by the learned GP for the State that the requirement of placing such rules before cabinet is not mandatory, in every aspect, in such matters. There is nothing placed on record to show that there was any such challenge raised earlier with the supporting material. Even if there is any requirement, still it is not mandatory and if it is directory, then also for want of such irregularities of procedure, the rule cannot be declared bad in law, in the present facts and circumstances, specifically in view of the Full Bench Judgment of this Court in *Chandrakant Sakharam Karkhanis & Ors. Vs. State of Maharashtra & Ors.*⁴.

40 The additional factor, in these matters, is that such challenge so raised in the present Petition, was not raised earlier though earlier they participated and acted upon without any objection, so far as this issue is concerned. Therefore, taking overall view of the matter, we see there is no reason to accept the contention

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of the learned counsel appearing for the Original Applicants that the rule required to be declared bad in law for want of so called no council sanction/approval as contended.

41 Even prior to the State amendment, the hierarchy is well-known and established, i.e. Police Constable, Police Naik, Police Head Constable and Assistant Sub Inspector. This is in the background that there are rules prescribed specifically for the PSI (Recruitment) Rules, 1995. The definition of “Police force” as quoted above, reflects that all these Police personnel are part of the Police for all the purposes, right from their appointment till the respective promotions.

Basic Seniority has been given importance for the promotions-

42 The seniority in all these matters has been respected, even the unamended provision/rule and also by the amended provision/rule. The definition of “constabulary” and the submission so raised surrounding the same are also of no assistance to maintain the impugned order so passed, as on the date of filing of Original Applications and/or passing of the orders, the definition of “constabulary” was not in existence. It is very clear, even otherwise,

the definition has been inserted in the context of regulating the transfers of all the Police personnel. The submission is made and as recorded even by the learned Tribunal that by inserting these two cadres through this amendment, amount to treating unequal equally and the action is discriminatory and arbitrary and it causes great injustice, hardship and prejudicial to the senior members of the Police personnel. It is for the State, considering the requirement of the department, to take appropriate policy decision. When we talk about the Police department/home department, the requirement of the Police strength and the physical force, physic, read with mental intellectual capacity, just cannot be overlooked. The aspects of departmental qualifying examination for promotion has been regular features even under the unamended rule. The Police Constable, even after appointment, needs to go through the qualifying examination for future promotions apart from the departmental ACR and/or physical health so required. This mechanism was never challenged, at any point of time, even the earlier rules, in this background, as recorded in the findings. The State classification, by taking into consideration the various factors, though there was some discussion about its side-effects on some of the group/classes, that itself cannot

be the reason to overlook the amended rules framed. The Court and/or Tribunal required to see the rules, its plain, simple meaning and its actual effect. The validity and/or legality, if any, and if it causes prejudice and/or injustice to the seniority list, then only based on the facts, the Court will pass and/or interfere in such rules and regulations, not on presumptions and assumptions.

The amended rule is clear and valid-

43 We are clear that the rules so framed in no way can be stated to be vague or unclear and/or there is any ambiguity. The issue of delegation of power and/or framing of such rules, by adopting the procedure of law and as already recorded above, is well within the framework of law and the power of the State. There is no question even otherwise, in the present facts and circumstances, to accept the case and the reasons given by the learned Tribunal of declaring the rule unconstitutional and/or bad in law. The Supreme Court recently in *Horal P. Harsora and Ors. Vs. Kusum Narottamdas Harsora & Ors.*⁵ while dealing with the aspect of validity of any provision has observed in paragraph 48 as

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under:-

..... *“However, when the provision is cast in a definite and unambiguous language and its intention is clear, it is not permissible either to mend or bend it even if such recasting is in accord with good reason and conscience. In such circumstances, it is not possible for the court to remake the statute. Its only duty is to strike it down and leave it to the legislature if it so desires, to amend it. Furthermore, if the remaking of the statute by the courts is to lead to its distortion that course is to be scrupulously avoided.”*

The impugned rule is not arbitrary, discriminatory and/or contrary to the basic statute/provisions of law. (*Cellular Operators Association of India and Ors.(Supra)*).

44 The Judgments, therefore, so cited by the learned counsel appearing for the Original Applicants-Respondents, so far as, the law is concerned, needs no further discussion in view of above. On facts, as there is no case made out, those Judgments are of no assistance to even uphold the order and/or the submissions so raised.

Amended rule is not unreasonable and contrary to the law-

45 It is relevant to note here that the Supreme Court in *Maharashtra State Board of Secondary and Higher Secondary Education*

and Anr. Vs. Paritosh Bhupeshkumar Sheth & Ors.⁶, while considering the various aspects of sub-ordinate legislation and its reasonableness and whereas the virus of legislation is raised, recorded as under:-

“21. The legal position is now well-established that even a bye-law cannot be struck down by the Court on the ground of unreasonableness merely because the Court thinks that it goes further than "is necessary" or that it does not incorporate certain provisions which, in the opinion of the Court, would have been fair and wholesome. The Court cannot say that a bye-law is unreasonable merely because the Judges do not approve of it. Unless it can be said that a bye-law is manifestly unjust, capricious, inequitable, or partial in its operation, it cannot be invalidated by the Court on the ground of unreasonableness.”.....

The classification is just and proper-

46 The classification, therefore, in the present facts and circumstances, so made, is well within the purview and the power of the State. This is basically to keep in mind the particular object to be achieved to strengthen the department, in every aspect. In any way, the scope, power of the Court is limited, once we have recorded that on facts, as well as, on the law by this amendment, there is no prejudice actually caused and in view of the subsequent

6 (1984) 4 SCC 27

development and the facts that all the Police personnel in pursuance to the orders passed by this Court, subject to rider/conditions have already appeared and passed the examinations. There was no prejudice, as shown and/or placed on record to justify the reasons so given by the learned Tribunal, based upon the submission made by the Original Applicants, that such amended rule is prejudicial and/or discriminatory and/or takes away any rights of the senior and/or junior, in the hierarchy in question.

47 At this stage, we are inclined to observe that, had the learned Tribunal noted the actual results and the decisions so reflected in the background of permitting them to appear in the examinations, based upon the amended rules, the reasoning and/or the shortcomings so recorded in paragraph 9, would not have been reflected. The importance has given by the Department, to the senior members in every aspects. Merely because the juniors and/or the other Police personnel have been permitted to participate in the qualifying examination, that itself in our view, should not have been the reason to held that the rule is bad in law, as observed by giving wrong reasons. The seniority is the foundation for giving any promotion,

even if the junior or senior, Police personnel permitted to be appeared in the examinations. Giving opportunity only to 25% of the total Police force, to appear along with the other seniors, that itself cannot be the reason to declare it bad in law. The permissions, therefore, based upon the amended rules to appear in the qualifying examination, in no way, can be stated to be unreasonable, discriminatory and/or takes away any rights of any personnel. It is clear that once the Police personnel, appeared in the examination based upon the amended rules and if they have qualified by passing the examination the “*select list*” required to be prepared, based upon the seniority as stated and submitted, and further promotions are required to be given by the department. Therefore, even on the date of passing of the order, there was no such case made out of any prejudice, injustice and/or hardship by declaring the rule bad in law. There was no such case and/or material observed and/or recorded, though the examinations were conducted during 30 August 2013 to 1 September 2013. The interim relief was granted by Tribunal on 28 August 2013, whereby even the Constables and the Police Naik, who completed more than 10 years of service, had been allowed to appear in that examinations, however, that was subject to the further orders

of the Tribunal. The examinations were accordingly conducted. The provisional result of the aforesaid examinations was declared by Additional Director General of Police, Mumbai on 7 September 2013 and the final result was declared on 8 October 2013. On the basis of final declared result, more than 32 orders of promotions to the post of PSI were issued by the Department, by which in all 1907 have been given temporary/ad-hoc promotions during the period from 13 December 2014 to 9 July 2014. As noted, the common impugned order was passed on 9 July 2014 and thereby the amended rule was quashed and set aside. The point, which remained to be considered that no actual prejudice and/or any breach of seniority rule, based upon the amended rule, is made out, however, based upon the averments made some Police personnel, amended rule is declared bad in law, by the learned Tribunal.

48 The impugned order, as it was based upon no data and material and on the assumption and presumption, is unsustainable and requires to be interfered with. We are inclined to observe that as and when the occasion arises and/or affected person and/or in spite of this mechanism, based upon the amended rules, if able to demonstrate

the prejudice and/or injustice caused to a group and/or an individual, the learned Tribunal and/or the Court may consider such submissions, on its own merits.

49 In continuation, it is also necessary to note at this stage itself that the State had filed review against the order which was dismissed on 21 August 2014. The Police Head Constables, Original Applicants, had also filed review and the same resulted into the dismissal. The restricted challenge was made by the Original Applicants in Review Application No. 21 of 2014 in O.A. No. 767 of 2013 (A. Sawant). On 17 September 2014, Writ Petition No. 8919 of 2014 was filed by P.M. Sonawane. On 9 October 2014, interim order was passed by this Court in the Writ Petition No. 8919 and 8843 of 2014 as stated earlier.

50 It is recorded that no other examination was conducted other than in question as per the amended rule during the period of 30 August 2013 to 1 September 2013. The State through the Department, however issued a corrigendum by giving regular

promotion orders of 1907 from the passed candidates in the Examination held in 2013 as earlier promotion orders were issued on ad-hoc/temporary basis on 31 December 2014.

51 The amendment was allowed on 13 January 2015, as the Original Applicants had challenged the order of regular promotions dated 31 December 2014. On 3 February 2015, the queries were raised by the High Court with regard to issuance of corrigendum dated 31 December 2014, despite order passed on 9 October 2014. The effect and operation of the corrigendum was stayed by order dated 5 May 2015, however permitted those 1907 PSI to continue purely on ad-hoc basis. So till this date, all these PSIs have been working on ad-hoc basis on their respective promotional posts.

52 The submission is also made through the affidavit that out of 2164 vacancies for the promotees, 1907 posts are required to be adjusted and there are 257 vacancies available from 25% quota of the promotees. It is submitted that 257 Police personnel as per the amended rule, required to be promoted on the basis of departmental qualifying examinations, in question.

53 The Supreme Court in *P. Mohan Reddy Vs. E.A.A. Charles & Ors.*⁷, while dealing with the aspect of giving the importance to seniority, in service jurisprudence, has declared that the seniority need to be respected. Everybody has a right to get the seniority determined. In the present case, even the earlier unamended rules and the practice so adopted by giving promotion has always been in keeping in mind the seniority of the respective promotees. The impugned rule, therefore, in no way stated to be bad in law and contrary to the provisions of law.

The Tribunal reasons are unacceptable and wrong-

54 The rules, therefore, as declared bad in law by overlooking these basic aspects, by referring to the shortcomings in Para 9, is unacceptable and totally wrong/erroneous. There was no automatic promotion, based upon the amended rule. The definition of “promotion” is no way disturbed and/or misconstrued by the Department. On the contrary, that has taken care of, while framing the rule, as recorded above. There is no data and/or material placed on record to show that this rule has affected the seniority of Havaladar

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and/or ASI. The earlier promotions, even if any, of the Police Constables based upon the continuous service in the force, that in view of the plain reading of the rule, would not affect the promotions, as the seniority is the foundation. By this rule to the extent of 25%, by keeping other promotion avenue open for remaining 75%, such insertion in no way can be stated to be unjust, unreasonable and/or prejudicial to any senior. The observation that the amended rule will affect or lose the seniority, which is punishment under the Maharashtra Civil Services Disciplinary Rules 1979, is unacceptable position. The recommendations, even if any, of the Departmental Promotion Committee, would be after the preparation of promotion list, keeping in mind the Police rules and the amended provisions, apart from the Statutes in question. The conduct of qualifying examinations by the Director General and not by MPSC, in no way, can be the foundation to hold that the amended is akin to nomination on the basis of limited departmental examination.

55 The reference, though was made to circular dated 26 March 1970, we have to see the totality of the reasons and the background, while deciding the constitutional authority of any such

rules. If there is such issue, it requires to be considered, but not on such vague and unclear pleadings. The law, in this regard, is very clear that for deciding the rights, flowing from any service conditions, the specific breach required to be put in and the concerned Tribunal and/or Court required to deal with it, by giving opportunity to all the concerned. The observations by the Tribunal, so made for want of pleadings and particulars that itself, in our view, is unacceptable. (*Union of India Vs. R. Bhusal*⁸).

56 We are declined to accept that the present amended rule, is contrary to the provisions of any earlier circular and/or any State policy. The Constable, who have put in more than 20 or 25 years of service and/or the Police Naik and/or Havaldar who have put in only 10 years of service, but still permitted to appear in qualifying examinations only to the extent of 25% is not against the law. The importance is given to the seniority of the Police Constables, and therefore, such rule on the contrary, takes care of every aspects of Department and the Police personnel. This is in the background that there is no challenge made and/or raised by the junior Police personnel's, who have been permitted to appear in the examination.

8(2006) 6 SCC 36

57 The Supreme Court in *P. Mohan Reddy (Supra)*, has in fact reiterated the aspect of issue of seniority. By this amended rule, there is no disturbance to the seniority in Police force, which is based upon the date of appointment of joining the Police force. It is wrong to observe that, any seniority would be predetermined, based upon this amended rule 3(a) as the amended rule is prospective in nature. There is no retrospective effect given to the same, therefore, we are declined to accept the reason that this affects the seniority of Havaldar and/or ASI. Ultimately, the department needs to take note of their need and requirement and accordingly they have a right to have a policy and requisite rules of promotions. The Police personnel's right of promotion, therefore, ultimately depends upon the service rules, conditions, which may be amended from time to time. However, in the present case, there is no prejudice, as such, made out and/or shown, therefore, merely because the State has brought four cadres eligible for promotion on the basis of initial date of entry in the Police force, cannot be stated to be caused great prejudice to the personnel in the cadre of Havaldar and ASI, as observed. This is, in the background, as recorded above, there is no such actual data and/or

material placed on record in the present matters, in hand. If the case is made out in a given case, the Tribunal and/or the Court may consider this facet, but not in the present case, as done by the Tribunal.

58 The finding that amended rule 3(a) violates the principles of prudent cadre management, service law on promotion and is totally arbitrary, is unacceptable. It is erroneous in the present facts and circumstances. We are not inclined to accept the finding that this amended rule, violates the principles of equality merely because, they have been permitted to appear for qualifying examinations. The learned Tribunal ought to have noted the basic foundation of importance so given to the seniority at the time of giving promotion from the select list, if any, after holding the examinations. There is no question of treating the police Constable, Police Naik, Police Havaldar and ASI, as equal for the purpose of promotion to the post of PSI. In the present case, the service conditions of Police force and Police personnel are governed by the provisions of the Maharashtra Police Act and various rules so made thereunder apart, from the Maharashtra Police Manual and the circulars so issued, from time to time. The

reasoning's, therefore, that the unamended rule is contrary to the circulars, is unacceptable and wrong in law.

59 The concluding Para 11, made the impugned order vulnerable, on various aspects, while declaring rule 3(a) unconstitutional. The learned Tribunal by enlarging the scope and power, has legislated the provisions by adding the emphasized words. The law in this regard is very settled. (Horal P. Harsora (supra)). The Original Applicants, themselves have challenged this part basically, the directions that the permission should be made only from the post of ASI and not from the post of Havaladar. The learned counsel appearing for the respective parties have placed judgments in support of the same stating that the Tribunal/Court cannot legislate the law. The further findings, having once declared rule 3(a) bad in law, was also uncalled for. It is settled that, any order passed by the Court and/or the Tribunal required to be executable/workable, in accordance with law. The impugned orders, therefore, need to be quashed and set aside by allowing all the Petitions.

Conclusion-

60 Therefore, taking overall view of the matter and for the

reasons so recorded above, we are inclined to allow the State Petition and quash and set aside impugned order dated 9 July 2014 passed in OA Nos. 767 of 2013 and 284 of 2014 and order dated 21 August 2014 passed in Review Application Nos. 21 of 2014 and 24 of 2014. We are also inclined to observe, that the amended rule 3(a) Police Sub-Inspector (Recruitment) (Amendment) Rules, 2013, is legal and valid. The action based upon the same therefore, is also within the framework of law and the record. The State/concerned Department is required to proceed on the basis of amended rule and take further appropriate steps and action accordingly, at the earliest, after taking into consideration the interim order dated 5.2.2015 in WP/8919/2014. The timely examinations/related steps need to be followed without delay. The order/Judgment passed, based upon the earlier unamended rules, need to be complied with, as we have touched only the aspects of amended rule 3(a). It is desirable for the State to consider the situation of the Head Constables, when even after 20 to 25 years of service, they are not getting any requisite promotion, though they are otherwise eligible for the same. It is for the State to frame policy in such situation.

61 Resultantly, we pass the following order:-

ORDER

- a) The State Writ Petition No. 4078 of 2015 is allowed.
- b) Impugned common order dated 9 July 2014 passed by the Tribunal in OA Nos. 767 of 2013 and 284 of 2014 is quashed and set aside and order dated 21 August 2014 passed in Review Application Nos. 21 of 2014 and 24 of 2014.
- c) The amendment to Rule 3(a) of Police Sub-Inspector (Recruitment) (Amendment) Rules, 2013, is not *ultra-virus*. It is valid.
- d) Writ Petition Nos. 8919 of 2014, 8843 of 2014, 10877 of 2014 are allowed to the extent of the restricted prayers and in view of above clauses (a) and (b).
- e) The State to take early steps in view of the amended rule 3(a) of Police Sub-Inspector (Recruitment) (Amendment) Rules, 2013 and the related circulars and the policy decisions, in accordance with law.
- f) In view of the disposal of Writ Petitions, all

intervention Applications are also disposed of.

g) No costs.

62 Mr. Savagave, the learned counsel appearing for the Respondents in WP No. 4078 of 2015 and Petitioner in WP No. 10877 of 2014, orally submitted to stay the effect and operation of the Judgment/Order, which we have passed today in the open Court. Mr. Vagyani, the learned GP has opposed such stay of this Judgment/Order. Considering the reasons so given and as no case is made out, we reject the oral prayer so made.

(A.S. GADKARI, J.)

(ANOOP V. MOHTA, J.)