

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.978 OF 2018

- 1) Bhaskar s/o Eknath Dhere,
Age-45 years, Occu:Service,
R/o-District Hospital, Osmanabad,
Tq. & Dist-Osmanabad,
- 2) Prakash s/o Ramkishan Aarsul,
Age-47 years, Occu:Service,
R/o-Sub-District Hospital,
Omerga, Tq-Omerga,
Dist-Osmanabad.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32,
- 2) The District Collector,
Beed,
- 3) The Additional Collector,
Beed.

...RESPONDENTS

...

Mr.S.S. Thombre Advocate for Petitioners.
Mr.A.B. Girase, Government Pleader for
Respondent Nos.1 to 3.

...

WITH

WRIT PETITION NO.979 OF 2018

Rahul s/o Dnyanoba Gaikwad,
Age-34 years, Occu:Service as
Sub-Inspector, State Excise,
Flying Squad, Jalna

...PETITIONER**VERSUS**

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32,
- 2) The District Collector,
Beed,
- 3) The Additional Collector,
Beed,
- 4) The Commissioner,
State Excise, Maharashtra State,
Mumbai.

...RESPONDENTS

...

Mr.S.S. Thombre Advocate for Petitioner.
Mr.S.B. Yawalkar, Additional Government
Pleader for Respondent Nos.1 to 4.

...

WITH**WRIT PETITION NO.988 OF 2018**

Balasaheb s/o Ashruba Wanve,
Age-42 years, Occu:Govt. Service,
R/o-Quarter No.MD26/25/02,
Medical Campus, Ambajogai,
Tq-Ambajogai, Dist-Beed.

...PETITIONER**VERSUS**

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32,
- 2) The District Collector,
Beed,
- 3) The Additional Collector,
Beed.

...RESPONDENTS

...
Mr.S.S. Thombre Advocate for Petitioner.
Mr.S.S. Dande, Government Pleader for
Respondent Nos.1 to 3.

WITH

WRIT PETITION NO.995 OF 2018

Amol Dadasaheb Jave,
Age-35 years, Occu:Service,
R/o-At Post-Bogandla,
Tq-Shrivardhan, Dist-Raigad

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Department of General Administration,
Mantralaya, Mumbai-32,
- 2) The Collector,
Collector Office, Beed,
Tq. & Dist-Beed,

- 3) The Additional Collector,
Collector Office, Beed,
Tq. & Dist-Beed.

...RESPONDENTS

...

Mr.Mahesh K. Bhosle with Mr. M.L. Muthal
Advocate for Petitioner.

Mr.A.B. Girase, Government Pleader for
Respondent Nos.1 to 3.

...

WITH

WRIT PETITION NO.996 OF 2018

- 1) Garkal Pralhad Bhimrao,
Age-35 years, Occu:Service,
R/o-Gramin Rugnalaya Nandurghat,
Tq-Kaij, Dist-Beed,
- 2) Maruti Raosaheb Rakh,
Age-46, Occu:Service,
R/o-PHC Patoda,
Tq-Chalisgaon, Dist-Jalgaon,
- 3) Maharudra Lala Kirdat,
Age 33 years, Occu: Service.
- 4) Prakash Raghunath Badage,
Age 52 years, Occu: Service.
- 5) Trupti Vijaykumar Tandale,
Age 45 Years, Occu: Service.
R/o. Heramb Talve Nagar
Behind Sai Angels English School
Aurangabad Highway, Ahmednagar 414 003
- 6) Dattatraya Shripati Sonawane,
Age 42 years, Occu: Service
R/o. PHC Anji,
Tq. and Dist. Wardha.

- 7) Parmeshwar Bhanudas Jagtap,
Age 43 years, Occu: Service.
- 8) Hanumant Dnyanoba Tupe,
Age 42 years, Occu: Service.
- 9) Sundarrao Dattatraya Badage,
Age 53 years, Occu: Service.
- 10) Yuvraj Raghunath Shinde,
Age 41 years, Occu: Service.
- 11) Dwarka Subhash Nagargoje,
Age 41 Years, Occu: Service
- 12) Ganesh Kisan Nagargoje,
Age 36 Years, Occu: Service
R/o.Z.P.School, Khadakwadi,
Post Chincholi, Tq.Ghansawangi,
Dist. Jalna.
- 13) Sangita Vitthal Mule,
Age 37 years, Occu: Service,
- 14) Sanjay Jyotiba Bhosle,
Age 42 years, Occu: Service
R/o.Z.P.P.S. Ragapur,
Tq. Ashti, Dist. Beed.
- 15) Tatyasaheb Laxman Sambre,
Age 32 Years, Occu: Service
- 16) Ashok Nanabhau Arsul,
Age 34 Years, Occu: Service

All petitioner nos.1,3,4,7,8 to 11,
13, 15 and 16:
R/o.District Civil Hospital, Beed
Dist.Beed.

- 17) Ramrao Limbaji Bangar,
Age 42 Years, Occu: Service,
R/o. Deputy Chief Auditor,
Local Funds Accounting
Kulkarni Compound, Near Dusanchar Office,
Dr. Ambedkar Road, Ratnagiri
Dist. Ratnagiri
- 18) Prabhakar Ramrao Wanve,
Age 45 years, Occu: Service
R/o. District Malaria Officer [Hiwatap Adhikari]
District Civil Hospital, Ahmednagar,
District Ahmednagar.
- 19) Somnath Asaram Nande,
Age Major, Occu: Service,
R/o. Office of Deputy Chief Auditor,
Beed, Dist. Beed.
- 20) Madhukar Tanhaji Sanap,
Age 50 years, Occu: Service [Dy. Accountant]
R/o. Flat No. B502, Kisankrupa Housing Society,
Near MHADA colony, Morwadi,
Pimpri, Pune-18.
- 21) Bhanudas Eknath Ugale,
Age 32 Years, Occu: Service,
At Post Ashti, Tq. Ashti,
Dist. Beed.

... PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Chief Secretary,
Mantralaya, Mumbai-32,
- 2) The Collector,
Collector Office, Beed,
Tq. & Dist-Beed,

- 3) Directorate of Accounts & Treasuries,
Kokan Division, Maharashtra State,
Mumbai,
- 4) District Civil Surgeon,
District Civil Hospital, Beed,
- 5) District Malaria Officer(Hiwtap Adhikari),
District Civil Hospital,
Ahmednagar, Dist-Ahmednagar,
- 6) Chief Executive Officer,
Z.P. Beed, Dist-Beed,
- 7) District Malaria Officer(Hiwtap Adhikari),
Wardha, Dist-Wardha,
- 8) District Malaria Officer(Hiwtap Adhikari),
Jalgaon, Dist-Jalgaon,
- 9) Chief Executive Officer,
Z.P. Ahmednagar,
Dist-Ahmednagar,
- 10) Chief Executive Officer,
Z.P. Jalna, Dist-Jalna

...RESPONDENTS

...

Mr.Mahesh K. Bhosle with Mr. M.L. Muthal
Advocate for Petitioner.
Mr.S.Y. Mahajan, Additional Government
Pleader for Respondent Nos.1 to 5, 7 & 8.

...

WITH

WRIT PETITION NO.998 OF 2018

- 1) Sunil s/o Manikrao Sakhare,
Age-53 years, Occu:Service,
R/o-District Malaria Office, Beed,
Tq. & Dist-Beed,

- 2) Sakharam s/o Raghuji Wanve,
Age-52 years, Occu:Service,
R/o-As Above.
- 3) Ganpat s/o Sarjerao Wanve,
Age-43 years, Occu:Service,
R/o-As Above,
- 4) Bhausahab s/o Bhagwanrao Rakh,
Age-43 years, Occu:Service,
R/o-As Above,
- 5) Suresh s/o Uddhav Bangar,
Age-41 years, Occu:Service,
R/o-As Above,
- 6) Mohan s/o Pandurang Nagare,
Age-43 years, Occu:Service,
R/o-As Above,
- 7) Rajendra s/o Sundarrao Sanap,
Age-39 years, Occu:Service,
R/o-Government Ayurved Medical
College, Osmanabad,
Tq. & Dist-Osmanabad,
- 8) Bhagwan s/o Namdeo Ugalmugale,
Age-34 years, Occu:Service,
R/o-Government Medical College,
Aurangabad, Dist-Aurangabad,
- 9) Balasaheb s/o Shamrao Jaybhaye,
Age-47 years, Occu:Service,
R/o-District Malaria Office,
Ahmednagar, Dist-Ahmednagar,
- 10) Ashok s/o Lahanu Rakh,
Age-40 years, Occu:Service,
R/o-District Malaria Office,
Ahmednagar, Dist-Ahmednagar,

- 11) Kailas s/o Ashruba Sonwane,
Age-45 years, Occu:Service,
R/o-As Above
- 12) Janardhan s/o Bhausahab Bhosale,
Age 52 years, Occ.Service,
R/o. as above.
- 13) Tukaram s/o.Pandharinath Nanaware,
Age 40 years, Occ. Service,
R/o. as above.
- 14) Ashok s/o. Tukaram Pawar,
Age 42 Years, Occu. Service,
R/o. as above.
- 15) Lahu s/o. Uttam Pandit,
Age 41 years, Occu. Service,
R/o. as above.
- 16) Vishnu s/o. Sarjerao Sanap,
Age 45 years, Occu. Service,
R/o. District General Hospital,
Gondiya, District Gondiya

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32,
- 2) The District Collector, Beed,
- 3) The Additional Collector, Beed.

...RESPONDENTS

...

Mr.S.S. Thombre Advocate for Petitioners.
Mr.S.B. Yawalkar, Additional Government
Pleader for Respondent Nos.1 to 3.

...

WITH

WRIT PETITION NO.1004 OF 2018

Satish s/o Narayan Bhandwalkar,
Age-42 years, Occu:Service,
R/o-Swami Samarth Colony,
Swaraj Nagar, Beed,

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector,
Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,
- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.K. Lakhotiya, A.G.P. for Respondent
Nos.1 to 6.

...

WITH

WRIT PETITION NO.1008 OF 2018

Rajratan s/o Shrimantrao Jaybhaye,
Age-39 years, Occu:Service,
R/o-Khandala, Tq. & Dist-Beed

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,
- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.N.Kutti, A.G.P. for Respondent
Nos.1 to 6.

...

WITH**WRIT PETITION NO.1011 OF 2018**

Maharudra s/o Babasaheb Wanve,
Age-41 years, Occu:Service,
R/o-Government Quarters, Government
Hospital, Beed, Tq. & Dist-Beed.

...PETITIONER**VERSUS**

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,
- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...
Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.S.Y. Mahajan, Additional Government
Pleader for Respondent Nos.1 to 6.

...
WITH

WRIT PETITION NO.1017 OF 2018

Sukhdeo s/o Babasaheb Wanve,
Age-51 years, Occu:Service,
R/o-Mahakala, Tq-Ambad, Dist-Jalna,
At present:Government Quarters,
Government Hospital, Georai,
Dist-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,
- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...
Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.K. Lakhotiya, A.G.P. for Respondent
Nos.1 to 6.

...
WITH

WRIT PETITION NO.1018 OF 2018

Jivan Manikrao Choure,
Age-35 years, Occu:Service,
R/o-Khandala, Post-Morgaon,
Tq. & Dist-Beed.
At present:Gandhinagar, Swami Colony,
Shital Building, Room No.3,
Ground Floor, Kolhapur,
Tq. & Dist-Kolhapur.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The District Malaria Officer,
Tq-Pandharpur, Dist-Solapur,

- 6) The District Malaria Officer,
Tq. & Dist-Kolhapur.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.S.S. Dande, A.G.P. for Respondent
Nos.1 to 6.

...

WITH

WRIT PETITION NO.1019 OF 2018

Anil s/o Shivajirao Navale,
Age-40 years, Occu:Service,
R/o-Navjivan Shikshak Colony,
Behind Bus Stand, Beed,
Tq. & Dist-Beed.
At present:Kaij, Tq-Kaij,
Dist-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector, Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,

- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.N. Kutti, A.G.P. for Respondent
Nos.1 to 6.

...

WITH

WRIT PETITION NO.1104 OF 2018

Rajabhau Dnyanoba Sanap,
Age-46 years, Occu:Service,
R/o-Dr. Bandorwala Leprosy Hospital,
Kondhwa, Yevlewadi, Pune.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Department of General Administration,
Mantralaya, Mumbai-32,
- 2) The Collector,
Collector Office, Beed,
Tq. & Dist-Beed,
- 3) The Additional Collector,
Collector Office, Beed,
Tq. & Dist-Beed.

...RESPONDENTS

...

Mr.Mahesh K. Bhosle with Mr. M.L. Muthal
Advocate for Petitioner.
Mr.S.Y. Mahajan, Additional Government
Pleader for Respondent Nos.1 to 3.

...

WITH**WRIT PETITION NO.1133 OF 2018**

Chandu Rangnath Jaybhaye,
Age-41 years, Occu:Service,
R/o-Khandala, Beed,
Tq. & Dist-Beed.
At present:Nerul, Sector-2,
Aamrapali Apartment,
New Mumbai.

...PETITIONER**VERSUS**

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector, Beed,
- 4) The Chief Auditor,
Local Funds Audit, Maharashtra State,
Kokan Bhavan, 6th Floor,
New Mumbai.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.N. Kutti, A.G.P. for Respondent
Nos.1 to 4.

...

WITH

WRIT PETITION NO.1137 OF 2018

Baban s/o Raghunath Wanve,
Age-55 years, Occu:Service,
R/o-Raymoha, Tq-Shirur(Kasar),
Dist-Beed,
At present:Kaij, Tq-Kaij,
Dist-Beed.

...PETITIONER**VERSUS**

- 1) The State of Maharashtra,
Through the Secretary,
Health Department,
Mantralaya, Mumbai-32,
- 2) The Collector, Beed,
- 3) The Additional Collector,
Beed,
- 4) The Director of Health Services,
Health Department,
Arogya Bhawan, St. George's
Hospital Compound, P.D.Mellow Road,
Mumbai,
- 5) The Deputy Director of Health
Services, Latur Division,
Latur,
- 6) The District Civil Surgeon,
Beed.

...RESPONDENTS

...

Mr.Ashok R. Tapse Advocate for Petitioner.
Mr.P.K. Lakhotiya, A.G.P. for Respondent
Nos.1 to 6.

...

**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE OF RESERVING ORDER : 8TH FEBRUARY, 2018

DATE OF PRONOUNCING ORDER: 21ST FEBRUARY, 2018

ORDER [PER S.S. SHINDE, J.]:

1. All these Petitions are filed challenging the common order dated 12th January, 2018, passed by the Maharashtra Administrative Tribunal and the similar issue is involved in all these Writ Petitions, therefore all these Petitions were heard together and the same are being disposed of by this common order.

2. As the facts in all these Petitions are almost similar, for the sake of convenience we will refer the facts in Writ Petition No.978 of 2018.

3. Brief facts giving rise to these Petitions are that, on the basis of the Government

policy, the Petitioners were appointed as nominees of the freedom fighters and at present they are serving in their respective departments. As per the Government Resolution the procedure is prescribed for verifying one of the nominee for getting the government service and in pursuance thereto all the Petitioners were nominated by the freedom fighters. Their nominations were verified by the competent authorities and all the Petitioners were appointed by following due process of law. It is submitted that Writ Petition No.2611 of 2002 was filed before the High Court and as per the order passed in the said Petition, the directions were given to appoint the committee comprising of Hon'ble Retired Justice M.R. Mane. The said committee has recommended for stopping of pensionary benefits to 349 freedom fighters. The said recommendations of the Committee were challenged before the High Court, and the High Court vide its order dated 19th March, 2004, set aside the inquiry report of Retired Justice M.R.

Mane. Against the said order dated 19th March, 2004, one Shri Bhaurao Dagadu Paralkar approached before the Supreme Court and filed Special Leave Petition Nos. 37835-37847/2012 and the Hon'ble Supreme Court appointed one member committee of Hon'ble Justice Palkar to inquire the cases of 355 freedom fighters. Pursuant to the report of the Palkar Commission, the State Government issued Resolution dated 21st March, and directed to stop the pensionary benefits of 298 freedom fighters and further directed to get back the honorary certificates granted to freedom fighters.

4. The Petitioners further referred to the earlier Government Resolution dated 11th February, 2014 and filing of Writ Petition No.1909 of 2014 challenging the said Resolution. The Petitioners further referred to the order passed in said Writ Petition No.1909 of 2014. It is further submitted that in the meantime, the freedom fighters whose pensionary benefits were withdrawn pursuant to

Palkar Commission Report, approached the High Court but their writ petitions were dismissed. Being aggrieved by the dismissal of said petitions, the freedom fighters approached before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its order dated 25th November, 2013, allowed the appeals and directed that the pensionary benefits granted by the State Government will enure only to the benefit of the appellants- freedom fighters and not to their legal heirs/ representatives. It has been further directed that after the bereavement of the appellants, the pensionary benefit so granted by the State Government will come to an end. It is submitted that in view of the subsequent development that the Hon'ble Supreme Court protected the benefits of these freedom fighters, those are already restored and all the freedom fighters are getting the pensionary benefits.

5. It is further submitted by the

Petitioners that, surprisingly Respondent No.3 issued an order dated 6th September, 2017 and by the said order, the nominations which were granted by the office of the District Collector in favour of 106 nominees including the Petitioners are cancelled and directed the appointing authority to forward the original nominations to the office of the District Collector. Against the said order dated 6th September, 2017, the Petitioners approached before the Maharashtra Administrative Tribunal by filing various Original Applications. The learned Maharashtra Administrative Tribunal (for short "MAT") vide its order dated 15th September, 2017, granted interim protection in favour of the Petitioners, which came to be continued from time to time. Thereafter on 12th January, 2018 the MAT, by placing reliance on the Judgment of the Hon'ble Apex Court in the case of chairman and Managing Director F.C.I. and others vs. Jagdish Balaram Bahira and others in Civil Appeal No.2928 of 2015, vacated the interim

relief granted in favour of the Petitioners on 15th September, 2017. Hence these Petitions are filed.

6. Learned counsel appearing for the respective Petitioners, referring to the grounds taken in the Petitions, submitted that MAT failed to consider that the impugned order dated 6th September, 2017 issued by the Additional Collector, Beed is unjust, arbitrary, illegal and the same is issued without giving an opportunity of hearing to the Petitioners and therefore the same is in violation of the principles of natural justice. It is submitted that the Petitioners came to be appointed after verifying all the procedure as contemplated in the policy of the Government and they have already rendered service for considerable period and are the permanent employees of the State Government, therefore the action will have to be initiated as per the provisions of the Maharashtra Civil Services

(Discipline and Appeal) Rules, 1979 and till today no such process is initiated against the Petitioners. The nominations are obtained by fraudulent means and the same were obtained by following the due process of law. The action which was taken by the Government to withdraw the pensionary benefits is already set aside by the Hon'ble Supreme Court, therefore another action to cancel the nominations of the Petitioners is illegal. It is submitted that as the Hon'ble Supreme Court has protected pensionary benefits of the freedom fighters, naturally the Petitioners needs to be protected as they have served for almost more than 15 years.

7. Learned counsel further submits that Respondent No.3 does not have power and therefore it cannot review its own nominations which were already verified and on the basis of the same the Petitioners were appointed by following due process of law. It is settled principle of law

that, the authority who issued an order, does not have a power to cancel or review its own order and it is for the superior authority to decide the same. Learned counsel invites our attention to the order passed in Writ Petition No.1909 of 2014 wherein it is observed that, it would be open for the Petitioners to claim entitlement to service protection and it would be open for the concerned authorities to consider the contentions of the Petitioners in the light of submissions made before the appointing authority in reply to the notices issued to each of the Petitioners. It is submitted that in the year 2014 the notices were issued to the Petitioners and they have replied to those notices and till today no orders on those notices are passed but Respondent NO.3 abruptly issued the impugned order dated 6th September, 2017.

8. Learned counsel further submits that the family members of the Petitioners are depending

upon them and if their services are terminated, the Petitioners and their small children would suffer a lot and they will be put on starvation as there is no any other source of income available to them except their service. It is submitted that the ratio laid down by the Supreme Court in the case of Chairman and Managing Director F.C.I. and others vs. Jagdish Balaram Bahira and others, cited supra, cannot be made applicable to the case of the present Petitioners, as the Petitioners are not seeking protection of service on invalidation of their caste claims/ tribe claims. It is submitted that the interim relief was granted by the Tribunal and though the matters are yet to be heard finally, in the midst the Tribunal has vacated the interim relief and refused to stay the impugned order dated 6th September, 2017 and therefore the Petitions deserve to be allowed.

9. In support of his submissions, learned counsel appearing for the Petitioners placed

reliance upon the exposition of law by the Supreme Court in the case of Punjab State Electricity Board and others vs. Leela Singh¹, Indian Railway Construction Co. Ltd. vs. Ajay Kumar in Civil Appeal No.3299 of 2000, decided on 2nd February, 2003, in the case of Navdeep vs. State of Punjab and others², Ram Kumar vs. State of U.P. and others³, Union of India and another vs. M.M. Sharma⁴. In support of his submissions, learned counsel also placed reliance upon the Judgment of the Bombay High Court, Bench at Goa in the case of Kunda Santosh Kerkar alias Kunda Narayan Kerkar vs. Hon'ble Speaker, Goa Legislative Assembly and others⁵. Learned counsel, in support of his submissions, also placed reliance upon the Judgment of the Division Bench of this Court (CORAM: S.S. SHINDE AND S.M. GAVHANE, JJ.) in group of Writ Petitions bearing Writ Petition No.217 of 2018 (Tatyaram s/o Dhanlal Kanade and

1 2007 (12) SCC 146

2 2006(9) SCC 500

3 2011(14) SCC 709

4 2011(11) SCC 293

5 2016(5) Mh.L.J. 593

others vs. the State of Maharashtra and others) and others Writ Petitions, dated 24th January, 2018.

10. Learned Government Pleader appearing for the State submits that the services of the Petitioners are not terminated and therefore there is no substance in their contentions that their services are terminated or likely to be terminated. He invites our attention to the impugned order dated 6th September, 2017, passed by the Additional Collector, Beed. He submits that by way of impugned order, only nominations which were made in favour of the Petitioners have been cancelled. Learned Government Pleader invites our attention to the Government Resolution dated 11th February, 2014 issued by the General Administration Department, Government of Maharashtra and submits that the decision taken by the Collector impugned in these Petitions is pursuant to the said Government Resolution. He

further submits that the afore mentioned Government Resolution dated 11th February, 2014 was challenged before the High Court, however the Writ Petition bearing No.2998 of 2014 (Tatyasaheb s/o Laxman Sambre and another vs. State of Maharashtra and others) and other connected Writ Petitions, taking exception to the said Government Resolution have been rejected by the Division Bench of this Court (CORAM: R.M. BORDE & A.M. BADAR, JJ.) by order dated 17th April, 2014. He invites our attention to the said order and submits that during the course of hearing of those Writ Petitions, similar arguments were advanced and those are negated by this Court. He also invites our attention to the order passed by the Supreme Court in the case of Ram Rao and others etc. etc. vs. District Collector Beed and others (Civil Appeal Nos. 10624-10636 of 2013 [@ Special Leave Petition (C) Nos.37835-37847 of 2012]) and in particular observations made by the Supreme Court in Para 7 of the order and submits that

there is no substance in the Petitions. Learned Government Pleader also invites our attention to the reasons assigned by the MAT in the impugned order. He submits that the Original Applications can be heard finally by the MAT and there is no reason to interfere in the order passed by the MAT. In support of his submissions, learned Government Pleader placed reliance upon the exposition of law by the Supreme Court in Civil Appeal No.8928 of 2015 Etc. Etc. (Chairman and Managing Director FCI and others) and other Civil Appeals, decided on 6th July, 2017.

11. We have considered the submissions of the learned counsel appearing for the respective Petitioners and also learned Government Pleader appearing for the State. We have carefully perused the pleadings, grounds taken in the Petition, annexures thereto.

12. At the threshold it will be gainful to

reproduce herein below Para 7 from the Judgment of the Supreme Court in the case of Ram Rao and others vs. District Collector Beed and others, referred herein above:

"7. Accordingly, we allow these appeals and set aside the impugned judgment and order passed by the High Court. We further direct that the pensionary benefits granted by the State Government will enure only to the benefit of the appellants and not to their legal heirs/ representatives. after the bereavement of the appellant(s), the pensionary benefit so granted by the State Government will come to an end."

13. Pursuant to the order passed by the Supreme Court in the case of Ram Rao and others vs. District Collector Beed, referred above, the Government of Maharashtra, in its General Administration Department, issued the Government Resolution dated 11th February, 2014, referred

above. At this juncture, it would be apt to reproduce herein below the relevant clauses from the said Government Resolution dated 11th February, 2014:

"शासन निर्णय"

१) सदर १९८ बोगस स्वातंत्र्य सैनिकांना दिलेले स्वातंत्र्य सैनिक सन्मान निवृत्ती वेतन व्याजासह वसूल करावे.

२) वरील सर्व बोगस स्वातंत्र्य सैनिकांच्या पाल्यांना देण्यात आलेली नामनिर्देशने रद्द करावीत.

३) या १९८ बोगस स्वातंत्र्य सैनिकांच्या ज्या पाल्यांना नोक-या देण्यात आलेल्या आहेत, त्यांना त्यांचे म्हणणे मांडण्याची संधी नियुक्ती प्राधिका-यांनी द्यावी व त्यांना सेवेतून कमी करावे.

ज्या प्रकरणी शासन नियुक्ती प्राधिकारी आहे, त्या प्रकरणी संपूर्ण तपशीलासह संबंधित प्रशासकीय विभागाकडे पुढील कार्यवाहीसाठी संदर्भ करावा.

४) मा. पालकर आयोगाने काढलेले निष्कर्ष विचारात घेऊन या सर्व १९८ जणांविरुद्ध फसवणूक केल्यासंदर्भात गुन्हे दाखल करावेत."

14. The said Government Resolution was

challenged by some of the Petitioners and similarly situated other nominees of the freedom fighters who are in the employment. The copy of the Judgment in Writ Petition No.2998 of 2014 (Tatyasaheb s/o Laxman Sambre and another vs. State of Maharashtra and others) and other connected Writ Petitions, dated 17th April, 2014, referred above, is placed on record by the Petitioners. We deem it appropriate to reproduce Para Nos.3 to 9 of the said Judgment, which will make clear the sequence of events and factual scenario for better understanding of the facts of the present case and challenge made before the Maharashtra Administrative Tribunal and by way of filing the present Writ Petitions:

"3 Certain facts leading to issuance of Government Resolution dated 11.02.2014 need to be taken into consideration. A petition was presented in this Court by one Mr.Bhaurao Paralkar, being PIL No.2619 of 2002. It was alleged in the petition that there are hundreds of freedom fighters who have taken

benefit of the Government policy and are in receipt of freedom fighter's pension. It was alleged in the petition that those freedom fighters, mainly from Beed District, have secured benefits on the strength of fabricated documents and by practicing fraud and misrepresentation. Even though such of the freedom fighters were not eligible to receive benefits of pension under the State policy, they were being paid pension amount regularly under the orders issued by the State Government.

4 The Division Bench of this Court, while dealing with the Public Interest Litigation (PIL) No.2619/2002, in order to enquire into the allegations made in the petition, directed constitution of Enquiry Committee under the Chairmanship of Mr.M.R.Maney. The Committee, constituted under the directions of this Court, scrutinised the record and recommended withdrawal of pensionary benefits in favour of 349 freedom fighters. While disposing of the petition, challenging the order passed by Maney Committee, the Division Bench of this Court did not approve the recommendations made by the Maney Committee and directed the State Government to continue to pay benefits to the freedom fighters. 5 The decision rendered by the Division Bench of this Court directing

resumption of pensionary benefits to the freedom fighters was a matter of consideration in Civil Appeals No. 51625167 of 2005, arising out of SLP Nos.11344 and 11348 of 2004, presented by Bhaurao Dagdu Paralkar. The Supreme Court, considering the allegations made in the Civil Appeal, directed constitution of one Man Commission to enquire into the allegations in respect of bogus and misleading claims of 354 freedom fighters. The OneMan Commission, constituted under the directions of the Supreme Court, inquired into the matter and recommended the State to withdraw pensionary benefits as well as all other benefits extended to 298 freedom fighters from Beed district. It has been also directed that apart from withdrawal of pensionary benefits, freedom fighter's certificates, issued in favour of such of the freedom fighters, shall also be withdrawn. The State Government, accordingly issued a Resolution on 21.03.2007 and issued directions to the concerned Treasury Officers and Banks to stop payment of pension amount to such 298 freedom fighters.

6 It is also a matter of record that many freedom fighters, who were aggrieved by the decision of the State Government, approached this Court by presenting petitions. However,

most of the petitions have been turned down by this Court thereby giving finality to the decision of the State Government in respect of stoppage of pensionary benefits. It is also a matter of record that freedom fighters approached the Supreme Court by presenting Civil Appeal Nos.1062410636 of 2013, arising out of SLP Nos.3783537847 of 2012. The Supreme Court expressed the opinion that keeping in view age of the freedom fighters and also keeping in view the fact that at this old age, if small benefit that was already granted to them is withdrawn, it may be difficult for them to sustain themselves. The Supreme Court, while allowing the appeals, directed that the pensionary benefits granted to the freedom fighters will enure only to the benefit of the appellants, who are before the Supreme Court, and not to their legal heirs/representatives. After the bereavement of the appellants, the pensionary benefit so granted by the State Government will come to an end.

7 Although the State Government took a decision in respect of withdrawal of pensionary benefits, however, other benefits extended under the Government policy, to such of the freedom fighters who have claimed their entitlement on the basis of fabricated record or by practicing fraud and misrepresentation,

were not withdrawn. As such, petition bearing Writ Petition No.2246 of 2008 came to be presented by Bhaurao Dagadu Paralkar and others, which has been decided by Division Bench of this Court on 27.09.2013. While disposing of the writ petition, a direction was issued to the Chief Secretary, Government of Maharashtra, to look into the representation made by the petitioners on 29.09.2007 in respect of withdrawal of benefits to such of the freedom fighters who are found to be not eligible to claim the benefits by Palkar Commission. It is observed in paragraph no. 8 of the order, as quoted below:

"8 Whatever amount has been paid to or concessions are enjoyed by those nominees after acceptance of report of the Justice Palkar Committee by this Court till date, can be an issue in dispute and it's recovery may also take sometime but future enjoyment of such concessions and benefits can definitely be stopped by the State Government by taking appropriate cognizance of the issue being raised by learned amicus through petitioner Nos.2 and 3. Hence, we direct the Chief Secretary to take necessary decision at the earliest and in any case within period stipulated above."

8 In pursuance to the decision of Division

Bench of this Court, the Chief Secretary, after extending hearing to the amicus curiae representing the petitioners before the State Government, issued certain directions. Those include:

- 1) Recovery of pensionary benefits extended to 298 ineligible freedom fighters together with interest;
- 2) To cancel the nominations issued by such freedom fighters in favour of their wards;
- 3) To take action of termination of services of the nominees of such freedom fighters after extending hearing to them by the appointing authority; and
- 4) To launch criminal prosecution against such 298 freedom fighters for deceiving the State.

9 The petitioners, in the instant petition, are concerned with the directions in respect of dispensing with their services. The petitioners before us have secured employment on the strength of nominations issued by the freedom fighters against whom action has been proposed by the State Government and who are in employment for the period ranging between 6/7 years to 15 years. The petitioners contend that they are governed by the relevant service rules and their services cannot be terminated

except by observing the procedure prescribed under service rules. The petitioners contend that the direction issued by the State Government is violative of the guarantee available to the petitioners under Article 311 of the Constitution of India since they are employees of the State Government."

15. In the said Writ Petitions, the Division Bench of this Court (CORAM: R.M. BORDE & A.M. BADAR, JJ.) in Para 12 of the order dated 17th April, 2014, held thus:

"12 One of the benefits extended to the freedom fighters is of accommodating nominees of such freedom fighters in employment under the State or Local bodies. The petitioners, before us, are the nominees of such freedom fighters who are held to be disentitled to receive pensionary and other benefits. Since the freedom fighters themselves are held ineligible to receive benefits, the benefits extended to the petitioners in the form of offering employment on the basis of nominations issued by the

freedom fighters is liable to be taken away. The appointment of the petitioners is admittedly by way of an exception to the due procedure adopted by the State Government in offering employment. The petitioners, by way of concession, have been accommodated in employment without following due procedure prescribed for offering employment under the State, Local bodies or instrumentality of the State. The petitioners have been granted precedence since they are nominees of the freedom fighters. Once a conclusion is reached that the freedom fighters, who have issued the nomination in favour of the petitioners, are disentitled to claim benefits under the Government policy, the petitioners, on the strength of such nominations, are not entitled to claim service protection as a matter of right. The benefits claimed by the freedom fighters, who are held to be disentitled to claim such benefits including the benefit in the form of employment to one of the close relations of the freedom fighters. are liable to be withdrawn."

16. We find considerable force in the arguments advanced by the learned Government Pleader that the challenge to the validity of the said Government Resolution has been turned down and further the Clause 2) in the said Government Resolution i.e. " २) वरील सर्व बोगस स्वातंत्र्य सैनिकांच्या पाल्यांना देण्यात आलेली नामनिर्देशने रद्द करावीत." has been held valid and therefore only on the basis of said provision in the Government Resolution, the nominations given in favour of the Petitioners that they are the nominees of the freedom fighters, has been cancelled by the Collector. Upon careful perusal of the reasons assigned by the Maharashtra Administrative Tribunal, the Maharashtra Administrative Tribunal has considered the entire sequence of events and the order passed by the Supreme Court in Civil Appeal Nos.10624-10636 of 2013, referred above, relevant Government Resolutions and also the Judgment of the Division Bench in Writ Petition No.2246 of 2008, and also various Judgments of the Supreme Court and reached

to the conclusion that the decision of the Collector to cancel the nominations of the Petitioners needs no interference.

17. Upon independent scrutiny of the entire material placed on record, we are also of the prima facie opinion that the decision taken by the Collector in the impugned order that, out of 298 bogus freedom fighters, as per the record of the office, the legal heirs/ close relatives of 106 freedom fighters who found to be bogus freedom fighters, who have taken disadvantage of such nominations secured employment in Government, Semi-Government or Local Bodies etc., the nominations executed by the office in their favour and no objections given by the Collector Office stands cancelled" is correct.

18. The Maharashtra Administrative Tribunal, after taking into consideration the arguments advanced by the counsel appearing for the parties

and also the documents placed on record, so also the decision of the Supreme Court and High Court, of which reference has already been made, in Para 9, reached to the following conclusions:

"9. From the above discussion of the facts as well as analysis of the decisions of Hon'ble High Court as well as Hon'ble Supreme Court, it is clear that the nomination of the services of the applicants have been cancelled on the strength of concluded fact that nominators were not entitled to nominate them. Their own claim of being freedom fighters was found fraudulent one. The decision of the respondents regarding cancellation of nomination certificates cannot be assailed. The only question that would remain as to whether due to the fact of being employed since long, having family to maintain, protection can be granted to them."

19. In the light of discussion herein above,

in our considered view the impugned order passed by the Maharashtra Administrative Tribunal needs no interference.

20. The apprehension expressed by the Petitioners that their services can be terminated at any time, is mis-founded. Clause 3) of the Government Resolution dated 11th February, 2014, referred herein above, makes it clear that only after giving proper opportunity to the nominees of the freedom fighters who are in the Government service/employment like the Petitioners, the appointing authority shall take the decision of terminating their services. As rightly submitted by the learned Government Pleader, the services of the Petitioners are not terminated and the Petitioners will get an opportunity to put forth their contentions as and when the appointing authority will invoke Clause 3) of the said Government Resolution.

21. We have considered the prayers in the Petitions, the arguments advanced by the learned counsel appearing for the Petitioners and also the material placed on record, keeping in view that the Petitioners have approached this Court challenging the interim order passed by the Maharashtra Administrative Tribunal thereby refusing to stay the impugned order dated 6th September, 2017 and Original Applications filed by the Petitioners are pending before the Maharashtra Administrative Tribunal and, therefore we refrain ourselves from elaborating the reasons on the merits of the contentions raised in the said Original Applications.

22. As observed earlier, in our opinion, the view taken by the Maharashtra Administrative Tribunal and the impugned order is in consonance with the material placed on record and keeping in view the pronouncements of the Supreme Court and High Courts and the relevant Government

Resolutions issued by the Government of Maharashtra from time to time and therefore needs no interference.

23. For the reasons stated herein above, all the Writ Petitions stand rejected.

24. During the course of hearing of the Petitions, it has been informed that the Maharashtra Administrative Tribunal has fixed the Original Applications for hearing on 13th March, 2018. It may be open for the Petitioners to apply for early hearing of those Original Applications, after giving notice to the Respondents. We expect that the Maharashtra Administrative Tribunal will hear all the Original Applications and decide the same, as expeditiously as possible, however in any case by the end of March, 2018.

25. It is made clear that the observations made herein above are prima facie in nature and

are confined to the adjudication of the present Writ Petitions and the Maharashtra Administrative Tribunal or any other Forum/ Authority shall not get influenced by the said observations.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]

asb/FEB18

. After pronouncement of the Judgment, the counsel appearing for the Petitioners prayed for continuation of ad-interim order. The prayer is vehemently opposed by learned Government Pleader. Since, we have made observations that the Maharashtra Administrative Tribunal shall make endeavour to hear and dispose of Original Applications as expeditiously as possible, however, by the end of March, 2018, in that view of the matter, in our opinion further continuation of ad-interim order would cause difficulty for the Maharashtra Administrative Tribunal to hear and decide the Original Applications. In that view

of the matter, prayed for continuation of ad-
interim order stands rejected.

[S.M. GAVHANE, J.]

asb/FEB18

[S.S. SHINDE, J.]