

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

WRIT PETITION NO. 330 OF 2019

Santosh Pandurang Lokhande

.. Petitioner

Vs.

The State of Maharashtra
Through Secretary, Home Dept.
& Ors.

.. Respondents

Mr.Sandeep Dere, Advocate for petitioner.

Mrs.R.A. Salunkhe, AGP for respondent No.1.

Mr.V.P. Sangvikar a/w. Mr.M.M. Chouhan, Advocate for respondent Nos. 3 to 8.

**CORAM : B.R. GAVAI &
N.J. JAMADAR, JJ.**

DATE : 11TH JANUARY 2019

P.C.

- 1 Rule. Rule made returnable forthwith and, by consent, heard finally.
- 2 The petitioner challenges the order dated 7th January 2019 passed by the learned Maharashtra Administrative Tribunal (MAT) in Original Application No.387 of 2018. In the said order, the learned Chairman and learned Member (A) of MAT have observed thus :-

“1 Heard Shri S.S. Dere, learned advocate for the applicants, Ms. Swati Manchekar, learned C.P.O. for the Respondents and Shri V. Sangvikar, learned advocate for Respondents Nos.3 and 8.

2 Adjourned sine-die with liberty to circulate after judgment in the SLP pending before Hon'ble Supreme Court.”

3 It is contended by the learned counsel for the petitioner that the learned Tribunal has adjourned the matter *sine-die* till the SLP challenging the judgment and the order passed by this Court in Civil Writ Petition No.2729 of 2015 is decided by the Hon'ble Supreme Court. However, on the similar facts, the Chairman of the Maharashtra Administrative Tribunal, vide order dated 6th November 2018 in O.A. No.394 of 2018 has observed that the judgment of a Division Bench of this Court is impliedly over-ruled by the Hon'ble the Constitution Bench of the Hon'ble Supreme Court in the case of ***Jarnail Singh & Ors. Vs. Lachhmi Narain Gupta & Ors.***¹ .

4 The learned counsel appearing for the contesting respondent Nos. 3 to 8 submits that the learned Tribunal ought to have decided the matter on its own merits. It will be relevant to quote the observations made by the learned Tribunal in O.A. No. 394 of 2018 in the order dated 6th November 2018, which read as under :-

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21. *In the result, the requirement of quantifiable data for either backwardness or adequate / fair representation of S.C. & S.T. in the services which is mandated in the judgment of Hon'ble High Court of Bombay in W.P. 2797 of 2015 stands completely overruled by necessary implication.*

22. *The uncertainty of the fate of 154 candidates may have existed until 26th November 2018 i.e. the date when the judgment of Hon'ble Supreme Court in Jarnail Singh & Ors. Vs. Lachhmi Narain Gupta & Ors. was pronounced. However, no ambiguity is now, prevalent due to dictum of Hon'ble Supreme Court in Jarnail Singh's case.*

1 (2018) 10 Supreme Court Cases 396.

6 Taking into consideration the above facts, we find that the order passed by the learned Member and the learned Chairman of MAT in O.A. No. 394 of 2018 adjourning the matter *sine-die* was not justified. Therefore, we hereby quash and set aside the order dated 7th January 2019 passed by the learned MAT in Original Application No.387 of 2018 and direct the Tribunal to decide Original Application No.387 of 2018 on its own merits. The same shall be done preferably within eight weeks from today.

7 The petition stands disposed of accordingly.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]