

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 903 OF 2020

Raja Tukaram Shinde,
Age : 42 Years, Occu. : Service,
R/o Katgaon, Tq. & Dist. Latur. .. Petitioner

Versus

1. The State of Maharashtra,
Tribal Development Department,
Mantralaya, Mumbai-32,
Through its Secretary.
2. The Executive Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Old Power House, Sale Galli,
Latur, Tq. & Dist. Latur. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri P. S. Patil, Addl. G. P. for the Respondent No. 1.
The Respondent No. 2 is served.

**WITH
WRIT PETITION NO. 1484 OF 2020**

Balu S/o Daga Koli,
Age : 55 Years, Occ. Service,
R/o. Plot No. 29, Vivek Colony,
Near Sambhaji Nagar Rikshaw Stop,
Jalgaon, Tq. & Dist. Jalgaon. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai- 32
Through its Principal Secretary.

2. The Superintending Engineer,
Public Works Department,
"Bandhkam Bhawan",
Opp: Office of the Collectorate,
Jilha Peth, Jalgaon,
Tq. & Dist. Jalgaon.
3. The Executive Engineer,
Public Works Division No. 2,
Jalgaon, Tq. & Dist. Jalgaon. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 1718 OF 2020**

Dadarao s/o Narayanrao Waghmode,
Age : 52 Years, Occ. Service,
R/o. Tirupati Housing Society,
Jatwada Road, Harsool,
Tq. & Dist. Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai- 32.
Through its Principal Secretary.
2. The Chief General Manager,
Maharashtra State Electricity Distribution
Company Ltd.,
4th floor, Prakashgad,
Bandra (East), Mumbai 400 051.
3. The Executive Engineer,
Maharashtra State Electricity Distribution
Company Ltd., (Rural-II Division),
In front of Garware Stadium,
MIDC, Chikalthana, Aurangabad. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
The Respondent No. 3 is served.

**WITH
WRIT PETITION NO. 1830 OF 2020**

Mohd. Naimoddin S/o Khiyamoddin,
Age : 55 Years, Occ. Assistant Teacher with
Zilla Parishad, Beed.
R/o. Rafai Colony, Near Darga,
Degloor, Tq. Degloor, Dist. Nanded . .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai-32.
Through its Principal Secretary.
2. The Chief Executive Officer,
Zilla Parishad, Beed. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri V. M. Chate, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 2928 OF 2020**

Shriram S/o Ratan Devaroy,
Age : 55 Years, Occu. Service,
R/o. Mandana, Tq. Shahada,
District Nandurbar. .. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.

2. The Executive Engineer,
Maharashtra State Electricity
Distribution Company Limited,
Vidhut Bhawan, Old Power
House, First Floor, Kukdel
Road, Shahada, Dist. Nandurbar. .. Respondents

Shri Deepak D. Chaudhari, Advocate for the Petitioner.
Shri A. S. Shelke, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 5577 OF 2020**

Vasudeo s/o Gangaram Koli,
Age : 46 Years, Occ. Service,
Original resident of Bhusawal,
Tq. Bhusawal, Dist. Jalgaon
Presently residing at-
Devari, Tq. Soyegaon, Dist.
Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Through its Secretary.
2. The Chief Executive Officer,
Zilla Parishad, Aurangabad
Tq. & Dist. Aurangabad
3. The Education Officer (Primary)
Zilla Parishad, Aurangabad .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri S. R. Dhepale, Advocate for Respondent No. 2 and 3.

**WITH
WRIT PETITION NO. 6730 OF 2020**

Taj Mohamad Khan S/o Karim Khan,
Age : 55 Years, Occ. Service,
R/o Kabadipura, Buddilane,
Aurangabad, Dist. Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. The Municipal Commissioner,
Aurangabad Municipal corporation,
Aurangabad. .. Respondents

Shri Nitin T. Tribhuwan, Advocate for the Petitioner.
Mrs. Anjali Bajpai-Dube, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 6835 OF 2020**

Anil s/o Madhav Parate,
Age : 42 Years, Occ. Service as
Additional Executive Engineer (Civil)
with office of the Maharashtra State
Electricity Distribution Co. Ltd, EHV Civil
Construction-cum-Maintenance Sub-Division
Babahleshwar, Tq. Rahata Dist. Ahemadnagar
R/o 1st Floor, Supekar Sadan, Opp. Mahfil
Hotel, Ahemadnagar-Manmad Road,
Babhleshwar, Tq. Rahata,
Dist. Ahemadnagar. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai- 32.
Through its Principal Secretary.

2. The Chief General Manager (Human Resources), Maharashtra State Electricity Distribution Company Ltd., Prakashganga, Plot No. C-19, E-Block, 7th Floor, Bandra-Kurla Complex, Bandra (East), Mumbai 400 051.
3. The Executive Engineer (Civil), Maharashtra State Electricity Distribution Company Ltd., Dharangaon Division, EHV Civil Construction-cum-Maintenance Block No.6, 1st Floor, Old Saykheda Road, Jail Road, Nashik Road- 422101.
Tq. & Dist. Nashik .. Respondents

Shri Sushant C. Yermwar, Advocate for the Petitioner.
Shri A. M. Gaikwad, Advocate for Respondent Nos. 2 and 3.

**WITH
WRIT PETITION NO. 8178 OF 2020**

Vijay S/o Jagannath Shirsath,
Age : 53 Years, Occu. : Service,
R/o At Present Room No. 5,
Sai Shraddha Apartment,
B-Cabin Road, Near Anand
Park, Ambarnath (East),
Thane – 421 501. .. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. The Chief Accountant,
Municipal Corporation of
Greater Mumbai, 4th Floor,
Mahanagar Palika Marg,
Mumbai – 400001.

3. The Deputy Chief Accountant,
Municipal Corporation of
Greater Mumbai, 4th Floor,
Mahanagar Palika Marg,
Mumbai – 400001. .. Respondents

Shri Ameya N. Sabnis, Advocate for the Petitioner.
Shri A. K. Tiwari, Advocate for the Respondent No. 3.

**WITH
WRIT PETITION NO. 8642 OF 2020**

Sanjaykumar s/o Shankarrao Koli,
Age : 52 Years, Occ. Service,
R/o 431/432, Hanuman Galli,
Kasba Bawda, Kolhapur. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai- 32.
Through its Principal Secretary.
2. The Additional Transport Manager,
Kolhapur Municipal Transport Undertaking,
Shri Sahu Cloth Market, North Wing,
1st Floor, C-Ward, Somwar Peth,
Kolhapur- 416002. .. Respondents

Shri Sushant C. Yermwar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 8942 OF 2020**

Narendra S/o Yashwant Parate,
Age : 48 Years, Occ. Service,
R/o C/O Vijay Mohan Kshiragar,
Behind G. P. Jalgaon, Tq. Dapoli,
District Ratnagiri. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai- 32.
Through its Principal Secretary.
2. The Registrar,
Dr. Balasaheb Savant Konkan Krishi
Vidyapith, Dapoli, Tq. Dapoli,
District Ratnagirii. .. Respondents

Shri Sushant C. Yermwar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 8970 OF 2020**

Sangita d/o Nagorao Mankar,
Age : 42 Years, Occu. Service (Gramsevak),
R/o. C/B-8, Hiraj Nagar, Pirangut,
Tq. Mulshi, Dist. Pune. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai- 32.
2. The Chief Executive Officer,
Zilla Parishad, Pune, Dist. Pune. .. Respondents

Shri Chandrakant R. Thorat, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 8977 OF 2020**

Narayan s/o Onkar Kumbhare,
Age : 49 Years, Occ. Service,
R/o. Vakratund Apartment,

Wing-C/2, Flat No.103,
Pujari City, College Chowk,
Isbai, Tq. Pandharpur, Dist. Solapur. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai-32.
Through its Principal Secretary.
2. The Superintending Engineer,
Maharashtra State Electricity Distribution
Co. Ltd., Circle Office,
Urjanagar, Murarji Peth, Solapur,
Tq. & Dist. Solapur. .. Respondents

Shri Sushant C. Yermwar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 8984 OF 2020**

Prakash S/o Mahadu Shirsat,
Age : 52 Years, Occ. Service,
R/o. Mahalaxmi Row House No. 12,
Survey No. 911/2, Plot No. 57,
Kundanlal Vasan Nagar,
Nashik-10, Tq. & Dist. Nashik. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai-32.
Through its Principal Secretary.
2. The Executive Engineer @ Appointing
Authority, Maharashtra State Electricity
Distribution Co. Ltd., Office of the City
Division No. 2, Nashik, Old Saykheda
Road, Hanuman Nagar, Jail Road,

Nashik, Tq. & Dist. Nashik.

.. Respondents

Shri Sushant C. Yermwar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 839 OF 2021**

1. Ku. Priti D/o Arunrao Tidke,
Aged about 43 Years, Occ. Service,
R/o. 16-A, Triveni Colony,
Congress Nagar, Amravati.
2. Ratan S/o Shankarsingh Nathe,
Age about 49 Years, Occ. Service,
R/o. Saturna Nagar, Bandera Road,
Amravati- 444607 .. Petitioners

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Principal,
Dr. Panjabrao Deshmukh
Polytechnic, Amravati. .. Respondents

Shri S. R. Narnaware, Advocate for Petitioners.

**WITH
WRIT PETITION NO. 845 OF 2021**

Ku. Neeta D/o Prabhakrrao Barapatre,
(Sau. Neeta W/o Anil Bangade)
Aged about 45 Years, Occ. Service,
R/o. 84, Gurudeo Nagar, Nagpur. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Principal,
Chief Conservator of Forest,
Van Bhavan, Ramgiri Road,
Near Police Jimkhana, Civil Lines,
Nagpur. .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 847 OF 2021**

Shankar S/o Shamrao Kuhikar,
Aged about 54 Years, Occ. Service,
R/o. Qtr No. D/61/5,
M.S.P.G.C.I. Colony, Khaparkheda,
Taluka Saoner, Dist. Nagpur. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Chief Engineer (Technical),
Maharashtra State Electricity
Generation Company Ltd.
(Mahagenco),
Estrellla Batteries Extension
Building, Ground Floor, Dharavi
Road Matunga, Mumbai- 400009.
3. The Chief Engineer,
Maharashtra State Power
Generation Company Ltd.
(MSPGCL), Chandrapur Super

Thermal Power Station (CSTPS),
Chandrapur.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 848 OF 2021**

Gopal S/o Motiramji Umate,
Aged about 49 Years, Occ. Service,
R/o. House No. C-6, Sai Nagari,
Brahmani Road, Wani, Tah,
Wani, Dist. Yavatmal.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

2. Chief Executive Officer,
Zilla Parishad, Yavatmal.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 851 OF 2021**

1. Nilkanth S/o Sitaram Nikhare,
Aged about 52 Years, Occ. Service,
R/o. Row House No. 23, Atharva
Nagari-3, Besa-Pipla Road,
Nagpur- 440037.

2. Rajesh S/o Bhaurao Hedau,
Aged about 54 Years, Occ. Service,
R/o. 55, Shridhar Apartment,
Flat No. 201, Opp. Tukaram
Sabhagruh, Suyog Nagar, Ring Road,
Nagpur.

3. Shrikant S/o Vasant Raoot,
Aged about 50 years, Occ. Service,
R/o. At present- Flat No. M/3,
Pushpak Apartments, Station Road,
Jatharpeth, Akola- 444005.
4. Santosh S/o Hanumanji Kalasakar,
Aged about 49 years, Occ. Service,
R/o. At present - At Post Ashti,
Tal. Bhatkuli, Dist. Amravati-
444801.
5. Sunil S/o Laxmanrao Dandore,
Aged about 51 Years, Occ. Service,
R/o. At present- 73, 'Vikalp'
Ganjakhet Chowk, Gandhibag,
Nagpur- 440002.
6. Ganesh S/o Parshram Godbole,
Aged about 56 Years, Occ. Service,
R/o. At present- Plot No. 503,
Flat No. 202, Pushpkamal
Apartment, Nehru Nagar,
Nandanwan Main Road,
Nagpur - 440009.
7. Suresh S/o Marotrao Parate,
Aged about 51 Years, Occ. Service,
R/o. Shikshak Colony, New
Brahmani, Ward No. 5,
Kalmeshwar, Taluka Kalmeshwar,
Dist. Nagpur.

.. Petitioners

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Chief Executive Officer,

Maharashtra Industrial Development Corporation, Udyog Sarthi, Mahakali Gumfa Marg, Andheri (East), Mumbai-93.

3. The Chief Engineer (HQ),
Maharashtra Industrial Development Corporation,
Marol Industrial Area, Mahakali Road, Andheri (E), Bombay-400093.
4. Office of the Superintending Engineer,
Maharashtra Industrial Development Corporation, Nagpur Circle, Udyog Bhavan, Civil Lines, Nagpur.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 854 OF 2021**

Ku. Neesha D/o Pandurang Gate,
(Smt. Neesha W/o Ravi Borsare)
Aged about 45 Years, Occ. Service,
R/o. At-Post- Mauda,
Taluka Mauda, Dist. Nagpur.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai- 32.
2. The Chief Executive Officer,
Zilla Parishad, Nagpur.
3. The Block Education Officer,
Panchayat Samiti, Mauda,
Dist. Nagpur.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner

**WITH
WRIT PETITION NO. 861 OF 2021**

1. Dhanrajsing S/o Raghuvirsing Bais,
Aged about 53 Years, Occ. Service,
R/o. Civil Surgeon Bunglow, Qtr
No. 16/404, Civil Line, Wardha.
2. Vijayasingh S/o Hukumsingh Banafar
Aged about 52 Years, Occ. Service,
R/o. Shastri Ward, Behind Power House,
Hinganghat, Dist. Wardha. .. Petitioners

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Deputy Director,
Health Services,
Nagpur Division, Nagpur. .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner

**WITH
WRIT PETITION NO. 878 OF 2021**

1. Kishor S/o Ramaji Bokde,
Aged about 55 Years, OCc. Service,
R/o C/o Shyamsunder Bhute,
Sarkar Nagar, Near Water Tank,
Chandrapur.
2. Dipak S/o Chandrakant Bokde,
Aged about 51 Years, Occ. Service,
R/o. Sneh Nagar, Ward No.8,
Near District Stadium, Gadchiroli.

3. Dipak S/o Bapurao Dharmik,
Aged about 55 Years, Occ. Service,
R/o. Krushna Kanhaiya Apartment,
Flat No.7, Near Divghare House,
Jatharpeth, Akola.
4. Dipak S/o Motiram Barapatre
Aged about 45 Years, Occ. Service,
R/o. Shegaon Toli, Ashirwad
Colony, Palora Road, Near
Ambedkar School, Armori,
Dist. Gadchiroli.
5. Sau. Prabha W/o Ramesh Bende,
(Ku. Prabhavati Purshottam Petkar)
Aged about 48 Years, Occ. Service,
R/o. F-1/3, Bhosale Nagar, Near
Sakkardara Talao, Post
Ayodhya Nagar, Nagpur.

..Petitioners

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai- 32.
2. Joint Director,
Vocational Education & Training,
Regional Office, Nagpur.
3. Chief Executive Officer,
Zilla Parishad, Akola.
4. Chief Executive Officer,
Zilla Parishad, Gadchiroli,
5. Secretary,
Vinayakrao Deshmukh High School
Society, Kaka Saheb Cholkar Marg,

Lakadganj, Nagpur- 440008.

..Respondents

Shri S. R. Narnaware, Advocate for the Petitioners.

**WITH
WRIT PETITION NO. 880 OF 2021**

Nutan S/o Purushottam Umredkar,
Aged about 54 Years, Occ. Service,
R/o. Plot No.39, Kapse Layout,
Swagat Nagar, Hudkeshwar Road,
Narsala, Nagpur- 440034.

..Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

2. Chairman,
Nagpur Improvement Trust,
Sadar, Nagpur- 440001.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 888 OF 2021**

Namdeo S/o Adkuji Hedao
Aged about 53 Years, Occ. Service,
R/o K 11, Parimal Apartment,
Flat No. 102, Near Rani Laxmi
Sabhagruh, Laxminagar,
Nagpur- 440022.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,

Mantralaya, Mumbai- 32.

2. Secretary,
Higher & Technical Educational
Department, Mantralaya,
Mumbai. .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 894 OF 2021**

Pravin S/o Babulalsingh Bais,
Aged about 53 Years, Occ. Service,
R/o. 26, Sable Layout, Swagat Colony
Road, Karla Chowk, Wardha. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Principal,
Shrikrushnadas Jaju Gramin
Sewa Junior College, Pipri-Wardha. .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 901 OF 2021**

Tarachand S/o Bapurao Dhapodkar,
Aged about 53 Years, Occ. Service,
R/o. Om Sai Niwas, Ganjanan Mandir,
Khod Bhavan, Naik Raod, Zenda Chowk,
Nagpur. 440032. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai- 32.
2. Chief Executive Officer,
Zilla Parishad, Nagpur.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 911 OF 2021**

Surendra S/o Gunwantrao Bardikar,
Aged about 54 Years, Occ. Service,
R/o. Ganjakheth Chowk, Deoghar
Mohalla, Bajirao Lane,
Nagpur - 440002.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
2. Chief Executive Officer,
Zilla Parishad, Nagpur.

.. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 917 OF 2021**

Rajesh S/o Manohar Darbeshwar,
Aged about 52 Years, Occ. Service,
R/o. Plot No 147, Shilpa Society,
Behind Dhan Laxmi Enterprise,
Beltarodi Road, Besa,
Nagpur - 440037.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai- 32.
2. Chief Executive Officer,
Zilla Parishad, Nagpur . .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 935 OF 2021**

1. Vasanta S/o Vithoba Barapatre,
Aged about 48 Years, Occ. Service,
R/o. Post Dighori (Mothi),
Taluk Lakhandur,
Dist. Bhandara.
2. Sudhakar S/o Dnyaneshwar Parhate,
Aged about 45 Years, Occ. Service,
R/o. Ward No.9, Near New Water Tank,
At-Post-Mowad, Tal. Narkhed,
Dist. Nagpur.
3. Ramchandra S/o Adkuji Dhakate,
Aged about 50 Years, Occ. Service,
R/o. Tadurwar Nagar, Ward No.5,
At Post and Taluka Armori,
Dist. Gadchiroli. .. Petitioners

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai-32.

2. The Chief Executive Officer,
Zilla Parishad, Buldhana.
3. The Deputy Director,
Vocational Education & Training,
Regional Office, Nagpur. .. Respondents

Shri S. R. Narnaware, Advocate for the Petitioners.

**WITH
WRIT PETITION NO. 3369 OF 2021**

Ku. Ganga Kamlakar Patil (Dhore),
(Sau. Ganga Subhash Budh),
Aged : 45 Years, Occ. Service,
R/o. 'Jeevanbodh' Block No. C-20,
Sudhir Colony, Akola
Taluka and District Akola. .. Petitioner

Versus

1. State of Maharashtra, through
its Secretary, General Administration
Department, Mantralaya, Mumbai.
2. Zilla Parishad, Akola,
Through its Chief Executive Officer,
Dist. Akola.
3. Education Officer (Primary),
Zilla Parishad, Akola, Dist. Akola
4. Assistant Commissioner (Backward
Cell), Amravati Division, Amravati. ..Respondents

Shri R. D. Karode, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 3379 OF 2021**

Vasant S/o Eknath Kolteke,
Aged : 49 Years, OCc. Service,
R/o. Asolkar Layout, Mothi Umri,
Akola Taluka and District Akola. .. Petitioner

Versus

1. State of Maharashtra, through
its Secretary, General Administration
Department, Mantralaya, Mumbai.
2. Zilla Parishad, Akola Through its
Chief Executive Officer, Dist. Akola.
3. Education Officer (Primary), Zilla
Parishad, Akola, Dist. Akola.
4. Assistant Commissioner (Backward
Cell), Amravati Division, Amravati. ..Respondents

Shri R. D. Karode, Advocate for the Petitioner.
Shri B. N. Jaipurkar, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 3382 OF 2021**

Mohanlal S/o Kukaji Tekade,
Aged 53 Years, Occu. Service,
R/o. Jawahar Nagar, Gokul
Colony, Near Narayani Building,
Akola, Dist. Akola. .. Petitioner

Versus

1. State of Maharashtra, through
its Secretary, General Administration
Department, Mantralaya, Mumbai.
2. Zilla Parishad Akola,
Through its Chief Executive Officer,
District Akola.

3. Education Officer (Primary),
Zilla Parishad, Akola. .. Respondents

Shri R. D. Karode, Advocate for the Petitioner.
Shri B. N. Jaipurkar, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 3390 OF 2021**

Vijay S/o. Damodhar Bhande,
Aged. 43 years, Occ. Service,
R/o. Patel Market, Choti Umri,
Jatharpeth, Akola, Dist. Akola. .. Petitioner.

Versus

1. State of Maharashtra,
Through its Secretary, General
Administration Department,
Mantralaya, Mumbai.
2. Zilla Parishad Akola,
through its Chief Executive Officer
District – Akola.
3. Education Officer (Primary)
Zilla Parishad, Akola. .. Respondents.

Shri Ram D. Karode, Advocate for the Petitioner.
Shri B. N. Jaipurkar, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 3394 OF 2021**

Gopal S/o. Devidas Ingle,
Aged. 48 years, Occ. Service,
R/o. Anandwadi Akot, Tq. Akot,
District – Akola. .. Petitioner.

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. Zilla Parishad Akola,
through its Chief Executive Officer
District – Akola.
3. Education Officer (Primary),
Zilla Parishad, Akola,
District Akola.
4. Assistant Commissioner (Backward Cell),
Amravati Division, Amravati. .. Respondents.

Shri Ram D. Karode, Advocate for the Petitioner.
Shri B. N. Jaipurkar, Advocate for Respondent Nos. 2 and 3.

**WITH
WRIT PETITION NO. 3416 OF 2021**

Vanita Mahadeorao Nimje,
Aged. 51 years, Occ. Service,
R/o. Samta Nagar, Phase-2,
Mendha Road, Bhandara. .. Petitioner.

Versus

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Deptt.,
Mantralaya, Mumbai – 32.
2. The Deputy Director,
Health Services,
Nagpur Division, Nagpur.
3. The District Civil Surgeon,
General Hospital, Bhandara. .. Respondents.

Shri S. R. Narnaware, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 3447 OF 2021**

Archana Shankarrao Bayaskar,
Aged. 49 years, Occ. Assistant Teacher,
R/o. Pushpagandha Apartment, Kothari
Watika No. 3, Malkapur, Akola. .. Petitioner.

Versus

1. The Chief Executive Officer,
Zilla Parishad, Akola.
2. The Block Education Officer,
Panchayat Samiti, Akola.
3. The State of Maharashtra,
Through Secretary, Department of Sports
and Education, Mantralaya,
Mumbai 400 032. .. Respondents.

Shri P. R. Parsodkar, Advocate for the Petitioner.

**WITH
WRIT PETITION NO. 3465 OF 2021**

Nalini Balkrushna Tarode,
(Sau. Nalini Santoshrao Kadu),
Aged. 44 years, Occ. Service,
R/o. Qtr. No. B-122, Zilla Parishad
Nagar, Khadki, Akola, Dist. - Akola. .. Petitioner.

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.

2. Zilla Parishad, Akola,
through its Chief Executive Officer,
Dist. Akola.
3. Education Officer (Primary),
Zilla Parishad, Akola, Dist. Akola. .. Respondents

Shri Ram D. Karode, Advocate for Petitioner.
Shri B. N. Jaipurkar, Advocate for Respondent No. 2.

**WITH
WRIT PETITION NO. 3474 OF 2021**

Devanand Anandrao More,
Aged. 44 years, Occ. Service,
R/o. Madhav Nagar, Gorakshan Road,
Akola, Dist. - Akola. .. Petitioner

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. Zilla Parishad, Akola,
through its Chief Executive Officer,
Dist. Akola.
3. Education Officer (Primary),
Zilla Parishad, Akola.
4. Assistant Commissioner (Backward Cell),
Amaravati Division, Amravati. .. Respondents

Shri Ram D. Karode, Advocate for Petitioner.
Shri B. N. Jaipurkar, Advocate for the Respondent No. 2.

**WITH
WRIT PETITION NO. 3513 OF 2021**

Smt. Duhita Dilip Chaulkar,
@ Kum. Hemangi Mahadev Koli,
Aged. 49 years, Residing at B-603
Gurudeo Co-op. Housing Society
Sector 20, Kamothe, Tq. Panvel,
District Raigad.

.. Petitioner.

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
2. Kalyan Dombivli Municipal Corporation
through its Commissioner,
having its office at Shivaji Chowk,
Kalyan (West), Dist. Thane. .. Respondents.

Shri R. K. Mendadkar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3514 OF 2021**

Surendra Parshuram Tengale,
Aged. 48 years, resident of 1502,
Gurumahima Apartment, Sector 4,
Sanpada, Navi Mumbai – 400 705.

.. Petitioner

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
2. Kalyan Dombivli Municipal Corporation
through its Commissioner,
having its office at Shivaji Chowk,
Kalyan (West), Dist. Thane – 421 301. .. Respondents.

Shri R. K. Mendadkar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3516 OF 2021**

Smt. Sangeeta Rajendra Ghosalkar
@ Kum. Sangeeta Harishchandra Vaity
Aged. 51 years, Residing at 33,
Thrid floor, Amruteshwar Niwas,
Mahagiri Koliwada, Reti Bunder Rd,
Thane West, District Thane. .. Petitioner

Versus

1. State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
2. Kalyan Dombivli Municipal Corporation
through its Commissioner,
having its office at Shivaji Chowk,
Kalyan (West), Dist. Thane. .. Respondents

Shri R. K. Mendadkar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3528 OF 2021**

Pralhad S/o. Keshao Wankhade,
Aged. 49 years, Occ. Service,
R/o. Shirke Complex, Yamuna Nagar,
Cherpoli, Tq. Shapur, Dist. Thane. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai – 32.
Through its Principal Secretary.

2. The Chief Executive Officer,
Zilla Parishad, Thane,
Opp. Tahsil Office, Station Road,
Thane (West), Thane, Dist. Thane. .. Respondents

Shri Sushant C. Yeramwar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3568 OF 2021**

Ramesh S/o. Devaba Koli,
Aged. 53 years, Occ. Service,
R/o. Dnyansai Apartment,
Behind Nani Wadeka Hospital,
Mahim Road, Palghar,
Tq. & Dist. Palghar. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai – 32.
Through its Principal Secretary.
2. The Chief General Manager,
Maharashtra State Electricity Distribution
Company Ltd., 4th Floor, Prakashgad,
Bandra (East), Mumbai 400 051. .. Respondents

Shri Sushant C. Yeramwar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3575 OF 2021**

Madhavi Rajendra Tiware
@ Kum. Madhavi Laxman Vaity
Aged. 51 years, Residing at Flat No.
502, A-Wing, Jokar Plaza, Opposite
K.C. Gandhi School, Near D Mart,
R.P. Road, Bail Bazaar,

Kalyan (West), Dist. Thane – 421 301. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
2. Kalyan Dombivli Municipal Corporation
through its Commissioner, having its
office at Shivaji Chowk,
Kalyan (West), Dist. Thane. .. Respondents

Shri R. K. Mendadkar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3595 OF 2021**

Babaso S/o. Mallappa Koli,
Age. 51 yrs, Occ. Service,
R/o. Kasba Nul, Tq. Gandhinglaj,
Dist. Kolhapur. .. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai – 32.
Through its Principal Secretary.
2. The Manager,
Government Press & Stationary Stores,
Tarabai Park Kolhapur,
Tq. & Dist. Kolhapur. .. Respondents

Shri Sushant C. Yeramwar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 3626 OF 2021**

Sunil Tarachand Nikume,
Age. 54 years, Residing at E/5,
Sai Shiv, Vaishnavi Park,
Bijali Nagar, Chinchwad,
Pune - 411 033.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
 2. Maharashtra State Electricity Transmission
Co. Ltd., Govt of Maharashtra
Undertaking Through its Chief
General Manager (HR), having
its officer at Prakash Ganga
Plot No. C-19, E Block,
7th floor, Bandra Kurla Complex,
Bandra (East), Mumbai – 51.
- .. Respondents

Shri R. K. Mendadkar, Advocate for Petitioner.
Shri A. M. Gaikwa, Advocate for Respondent No. 2.

**WITH
WRIT PETITION NO. 3628 OF 2021**

Savita D/o. Barikrao Adhe,
Age. 50 years, Occ. Service,
R/o. At & Post Mandangad,
Near Post Office, Tq. Mandangad,
Dist. Ratnagiri.

.. Petitioner

Versus

1. The State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai – 32.
Through its Principal Secretary.

2. The Chief Executive Officer,
Zilla Parishad, Bharatratna Dr. Babasaheb
Ambedkar Bhavan, 1st Floor, Malnaka,
Ratnagiri – 415 612.
Tq. And Dist. Ratnagiri. .. Respondents

Shri S. C. Yeramwar, Advocate for Petitioner.

**WITH
WRIT PETITION NO. 9032 OF 2020**

Suresh Baban Sambare,
Age. 56 years, Residing at
Ajinkya A Bldg., Flat No. 1,
Darshan Park, D.P. Road,
Near D.V.A. Public School,
Baner, Dist. Pune. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
General Administrative Department,
Mantralaya, Mumbai – 400 032.
2. Savitribai Phule University,
Through its Registrar,
Having its office at Ganeshkhind,
Pune – 411 007. .. Respondents

Shri C. K. Bhangoji, Advocate for Petitioner.

Shri P. S. Patil, Addl. G. P. for Respondents/State in all matters.

Shri S. B. Deshpande, Advocate for the Intervenor.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

CLOSED FOR JUDGMENT ON : 19.03.2021

JUDGMENT PRONOUNCED ON : 04.05.2021

JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. All these writ petitions are based on similar set of facts and involve common question of law, as such are decided by the common judgment.

3. The petitioners in all these petitions are in public employment. Their tribe claims are invalidated. The invalidation of the tribe claims by the Scrutiny Committee were assailed by these petitioners before this Court either at Principal Seat at Bombay or Benches at Nagpur and Aurangabad. The invalidation of their tribe claims were confirmed by this Court, however, this Court granted protection to their services. The judgments of this Court granting protection to the services of the petitioners have attained finality.

4. The action of the respondent/employer placing the petitioners on supernumerary posts relying upon the Government Resolution dated 21st December, 2019 has given rise to present litigation. The petitioners in majority of these petitions have challenged the Government Resolution dated 21st December, 2019 and the impugned order placing them on supernumerary posts. The G. R. dated 21st December, 2019 is

issued after the judgment of the Apex Court in a case of **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others** reported in *2017(8) SCC 670*.

5. The gravamen of the contentions of the respective learned counsel for petitioners is that, if the judgment inter-parties delivered by this Court has become final and there is subsequent change in law because the Apex Court takes different view, the change in law does not have the effect of unsettling rights settled earlier. The subsequent interpretation of the law and the judgment of the Apex Court in a case of **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others** (supra) would not have the effect of reversing the decisions made prior to the view taken by the Apex Court in the said case. The judgments delivered by this Court granting protection in service to the petitioners would operate as *res-judicata*. The said judgments would bind the parties interese. The subsequent judgment delivered by the Apex Court would also not be a ground to review the judgments delivered by this Court earlier in point of time and attained finality.

6. The learned counsel further submit that, the Government Resolution dated 21st December, 2019 cannot be sustained. The petitioners cannot be placed on supernumerary posts in view of the protection granted by this Court in the writ petitions filed by the petitioners.

7. The learned counsel relied upon the following judgments of

the Apex Court and the High Court.

- I. Gajanan Marotrao Nimje and others Vs. Reserve Bank of India and others reported in (2019) 12 SCC 639.
- II. Sanjeev Kumar and another Vs. State of Bihar and others reported in (2016) 13 SCC 105.
- III. R. Unnikrishnan and another Vs. V. K. Mahanudevan and others reported in (2014) 4 SCC 434.
- IV. Kalinga Mining Corporation Vs. Union of India and others reported in (2013) 5 SCC 252.
- V. Dattu S/o Namdev Thakur Vs. State of Maharashtra and others reported in (2012) 1 SCC 549.
- VI. Punjab National Bank and another Vs. Vilas Govindrao Bokade and another reported in (2008) 14 SCC 545.
- VII. Judgment/order dated 23rd June 2020 passed by this Court in Writ Petition (ST) No. 10841 of 2020.
- VIII. Judgment/order dated 06th July 2020 passed by this Court in Writ Petition (ST) No. 11328 of 2020.
- IX. Pradeep Kumar Maskara and others Vs. State of West Bengal and others reported in (2015) 2 SCC 653.

8. Per contra, Mr. P. S. Patil, the learned Additional Government Pleader for respondent Nos. 1 to 6, Mr. A. M. Gaikwad, the learned advocate appearing for respondents and Mr. S. B. Deshpande, for intervenor have canvassed their submissions. It is submitted that, the petitioners were appointed in public employment from the Scheduled Tribe category. It is proved under the judgment of the Scrutiny Committee and confirmed by this Court that, these petitioners are not tribals. The petitioners have illegally obtained the benefit of the posts

meant for the scheduled tribe persons.

9. The learned counsel submit that, the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra) has clearly held that, a person not belonging to tribal category is not entitled to claim any benefit either in education, employment or election matters. The judgment of the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra) is applicable in the present matters. The judgment of the Apex Court acts retrospectively. The Court has not pronounced a new rule. In a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra) the Apex Court has laid down the position of correct law. The law was same. The correct principle was applied. It has clarified the legal position. It would act retrospectively. The learned counsel rely on the judgment of the Apex Court in a case of Assistant Commissioner, Income Tax Rajkot Vs. Saurashtra Kutch Stock Exchange Limited reported in (2008) 14 SCC 171 and also in a case of Vineeta Sharma Vs. Rakesh Sharma and others reported in (2002) 9 SCC 1.

10. It is further submitted that, the *doctrine of prospective overruling* would not apply in the present cases. The Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra) has not observed that, the judgment would apply prospectively only. The said judgment shall apply to the judgment earlier delivered by this

Court. The learned counsel rely on the judgment of the Apex Court in a case of P. V. George and others Vs. State of Kerala and others reported in *AIR 2007 SC 1034*, so also another judgment of the Apex Court in a case of M. A. Murthey Vs. State of Karnataka and others reported in *AIR 2003 SC 3821* and the judgment of the Apex Court in a case of Suresh Chand Gautam Vs. State of Uttar Pradesh and others reported in *AIR 2016 SC 1321*, so also judgment in a case of *Ramesh Kumar Soni Vs. State of Madhya Pradesh* reported in *AIR 2013 SC 1896*.

11. The learned counsel for respective respondents also place reliance on the decision dated 01.02.2018 of the Division Bench of this Court at Nagpur in Writ Petition No. 6217 of 2014 to submit that, the benefit granted to those securing employment from the Scheduled Tribe category and subsequently having found their claims to be incorrect, cannot be allowed to be continued in service and the benefits are to be withdrawn.

12. It is further submitted that, rights of eligible persons, who would have got employment from reserved category in place of petitioners are violated. The petitioners are imposters, posing themselves as scheduled tribe persons. Upon rejection of their tribe claims by the Committee and confirmed by this Court, it is manifest that, undeserving benefit has been obtained by the petitioners and for whose benefit reservation is created are ousted. They have played a fraud on the Constitution. The protection in service was granted in deserving cases by the Apex Court invoking Article 142 of the Constitution.

No illegality has been committed while passing Government Resolution on the basis of the judgment of the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra).

13. The spectrum of the lis revolves around the protection granted to these petitioners by the High Court in service and the effect of the protection granted by this Court after the judgment of the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra).

14. The petitioners are appointed in the public employment from the scheduled tribe category. The tribe claims of the petitioners were referred to the Scrutiny Committee for verification. The Scrutiny Committee upon verification invalidated the tribe claims of the petitioners. Aggrieved thereby the petitioners approached this Court challenging the judgments of the Scrutiny Committee invalidating their tribe claims by filing writ petitions. This Court under its respective judgments upheld the judgments of the Scrutiny Committee invalidating tribe claims of the petitioners. Though the judgments of the Scrutiny Committee invalidating the tribe claims of the petitioners were upheld, this Court protected the services of the petitioners on the terms enumerated in the judgments of this Court. The judgments of this Court confirming the judgments of the Scrutiny Committee invalidating the tribe claims of the petitioners and also granting protection in service vis-a-vis their

employment have become final. The employers have also accepted the judgments of this Court granting protection to the services of the petitioners upon invalidation of their tribe claims. The judgments of this Court *inter alia* between the petitioners and their employers have attained finality.

15. Subsequent to the judgments of this Court granting protection to the petitioners in their employment, the judgment in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra) is delivered by the Apex Court. In the said judgment, the Apex Court observed that, a person whose tribe claim is invalidated has no right to remain in employment and all the benefits received by such employee are to be withdrawn. On the basis of the judgment of the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra), the State of Maharashtra has issued the Government Resolution dated 21st December, 2019 and the impugned orders placing the petitioners on supernumerary posts.

16. The Government Resolution dated 21st December, 2019 is said to be issued pursuant to the judgment delivered by the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others. The Government Resolution dated 21st December, 2019 is in regional language. Clause 1 of the said Government Resolution reads thus :

1. अनुसूचित जमातीसाठी राखीव असलेली पदे रिक्त करणे – सर्व प्रशासकीय विभागांनी खुद्द व त्यांच्या अधिपत्याखालील शासकीय/निमशासकीय कार्यालयातील अनुसूचित जमातीच्या खालील अधिकारी व कर्मचा-यांची संवर्गनिहाय संख्या निश्चित करून त्यांच्या सेवा दि. 31.12.2019 पर्यंत अधिसंख्य पदांवर वर्ग कराव्यात :-

(अ) अनुसूचित जमातीचे जात प्रमाणपत्र अवैध ठरलेले अधिकारी/कर्मचारी.

(ब) अनुसूचित जमातीचे जात प्रमाणपत्र अवैध ठरल्यानंतर विशेष मागासप्रवर्गाचे अथवा अन्य कोणत्याही मागासवर्गाचे जात वैधता प्रमाणपत्र सादर केलेले अधिकारी/कर्मचारी.

(क) अनुसूचित जमातीचा दावा सोडून दिलेले अधिकारी/कर्मचारी.

(ड) नियुक्तीनंतर जातप्रमाणपत्राच्या पडताळणीसाठी विहित मुदतीत जात पडताळणी समितीकडे प्रस्ताव सादर न केलेले अनुसूचित जमातीचे अधिकारी व कर्मचारी.

(इ) ज्या अधिकारी व कर्मचा-यांनी त्यांचे अनुसूचित जमातीचे जात प्रमाणपत्र अवैध ठरविण्याच्या जात पडताळणी समितीच्या निर्णयाच्या विरोधात माननीय न्यायालयात याचिका दाखल केल्या असतील मात्र त्यांच्या प्रकरणी माननीय उच्च न्यायालयाने किंवा माननीय सर्वोच्च न्यायालयाने जात प्रमाणपत्र अवैध ठरविण्याच्या समितीच्या निर्णयास कोणतीही स्थिगिती दिली नसेल असे अधिकारी व कर्मचारी.

17. In the present cases, the tribe claims of the petitioners are invalidated and the said judgments are upheld by this Court, however, protection is granted to their services. Reading clause 1 (A to E) of the impugned Government Resolution, it appears that, the petitioners are not directly covered under the said G. R.

Present matters are limited only in respect of those candidates to whom the High Court under its orders has granted protection to the petitioners in their employment. Such a category does not appear to be covered in the Government Resolution dated 21st December, 2019.

18. In case of Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others (supra), the Apex Court has not observed that, the said judgment would apply prospectively. For applying the doctrine of prospective overruling, the Apex Court in the judgment shall expressly state that, the judgment would operate prospectively. In the present cases, the issue of applying the principle of prospective overruling does not emerge.

19. The Apex Court in a case of Pradeep Kumar Maskara and others Vs. State of West Bengal and others reported in (2015) 2 SCC 653 has held that, even if the decision on a question of law has been reversed or modified by subsequent decision of a superior court in any other case, it shall not be a ground for review of a judgment which has attained finality inter parties merely because a subsequent judgment has taken contrary view. The Apex Court in a case of Kalinga Mining Corporation Vs. Union of India and others (supra) has held that, adjudication of facts attaining finality inter parties even if found to be based on illegal interpretation later altered/found to be erroneous, reiterated, cannot be reopened inter parties and would operate as *res-judicata* regardless of subsequent changed view of law.

20. The judgments between the petitioners and the employers delivered by this Court granting protection in service even after invalidation of their tribe claims have become final. The same would be binding inter parties. The same would operate as a *res-judicata*. The Apex Court in a case of **Kalinga Mining Corporation Vs. Union of India and others** (supra) has observed as under :

“43. In view of the aforesaid clear enunciation of the law by this Court, it would appear that even if the judgment dated 2-7-2001 rendered by the High Court in OJC No. 11537 of 1999 and the dismissal in limine of SLP (C) No. 13556 of 2001 arising from the aforesaid judgment is considered to be erroneous in view of the judgment in *Saligram case*, the matter regarding the locus standi of the LR of Respondent 10 to proceed with a mining lease application cannot be permitted to be reopened at this stage since it has become final inter partes.

44. Even though, strictly speaking, *res judicata* may not be applicable to the proceedings before the Central Government, the High Court in exercise of its power under Article 226 was certainly entitled to take into consideration the previous history of the litigation inter partes to decline the relief to the appellant. Merely because the High Court has used the expression that the claim of the appellant is barred by *res judicata* would not necessarily result in nullifying the conclusion which in fact is based on considerations of equity and justice. Given the history of litigation between the parties, which commenced in 1950s, the High Court was justified in finally giving a *quietus* to the same. The subsequent interpretation of Rule 25-A by this Court, that it would have only prospective operations, in *Saligram case*, would not have the effect of reopening the matter which was concluded between the parties. In our opinion, if the parties are allowed to reargue issues which have been decided by a court of

competent jurisdiction on a subsequent change in the law then all earlier litigation relevant thereto would always remain in a state of flux. In such circumstances, every time either a statute or a provision thereof is declared ultra vires, it would have the result of reopening of the decided matters within the period of limitation following the date of such decision. In this case not only the High Court had rejected the objection of the appellant to the substitution of the legal heirs of Dr. Sarojini Pradhan in her place but the SLP from the said judgment has also been dismissed. Even though, strictly speaking, the dismissal of the SLP would not result in the merger of the judgment of the High Court in the order of this Court, the same cannot be said to be wholly irrelevant. The High Court, in our opinion, committed no error in taking the same into consideration in the peculiar facts of this case. Ultimately, the decision of the High Court was clearly based on the facts and circumstances of this case. The High Court clearly came to the conclusion that the appellant had accepted the locus standi of the LRs of Dr. Sarojini Pradhan to pursue the application for the mining lease before the Central Government, as well as in the High Court.”

21. It is not the case of respondents that, the judgments delivered by this Court granting protection in service of the petitioners was by fraud. Fraud renders the judgment, decree or order a nullity and nonest. Fraud vitiates every solemn act including judgment obtained by fraud. It is not the case of the parties that, the judgments of this Court granting protection to the employment of the petitioners were obtained by fraud.

22. The Apex Court in a case of S. G. Barpatre and others Vs. Ananta Gajanan Gaiki reported in *AIR Online 2018 SC 715* has protected the services of the petitioners therein. In the said case before the judgment was delivered by the Apex Court in a case of Chairman and Managing Director, Food Corporation of India and others

Vs. Jagdish Balaram Bahira and others (supra) services of the petitioners were protected under the orders of the High Court dated 20th February, 2015 in Writ Petition No. 6631 of 2007. The Apex Court observed that, the judgment between the parties has become final. In the case of The Chief Regional Officer, Oriental Insurance Co. Ltd. Vs. Pradip and another reported in *AIR 2020 SC 4858*, the Apex Court has considered its judgment in a case of S. G. Barpatre and others Vs. Ananta Gajanan Gaiki (supra) and observed as under :

“15. The above observations make it abundantly clear that the challenge by the Food Corporation of India to the order of the Bombay High Court had been rejected on 12 April 2013 and as a result of the decision *inter partes*, the order of the High Court had attained finality. Consequently, this Court clarified in paragraph 9 of the above order that only the employees covered by the earlier judgment shall be entitled to the benefits which have been granted specifically by the High Court in paragraph 18 of its judgment, which has been extracted above.”

23. The matter can be viewed from another pedestal. The decision of a Court having jurisdiction even if is erroneous, is binding between the parties, unless set aside by the higher Court or unless the said judgment is reviewed. The correctness or otherwise of the decision of the High Court protecting the services of the petitioners would not be relevant. Even an erroneous judgment is as much binding between the parties as a correct one, unless set aside by the higher Court or reviewed by the same Court. Once the judgment is concluded inter parties, the parties cannot be allowed to re-agitate the issue decided by the Court of competent jurisdiction on the basis of subsequent

judgment of the Apex Court.

24. The employer at no stage after the order was passed by this Court granting protection to the services of the petitioners questioned the judgments of this Court and in a way accepted the said judgments. The employer after a long slumber cannot be allowed to turn around and by executive instruction set aside the protection granted by this Court by exercising its jurisdiction under Article 226 of the Constitution of India. The petitioners are placed on supernumerary posts based upon the executive instructions of the Government dated 21st December, 2019. The Executive does not possess the authority to sit over the judgments of the High Court delivered in exercise of its powers under Article 226 of the Constitution of India. The judgments of this Court would be binding on the employer. The respondents cannot travel beyond the judgments and order of this Court. If the respondent/employers were not satisfied by the judgments of this Court granting protection in service to the petitioners, they could have approached the Apex Court and/or immediately sought review of the judgments granting protection in service to the petitioners. The respondents did not avail the remedy available to them. On the contrary accepted the judgments without demur. Article 162 of the Constitution of India would not permit the executive to take a policy decision and issue the impugned resolution in defiance of the judgments of this Court. The judgments of this Court cannot be set at naught by the executive resorting to its powers under Article 162 of the Constitution and if it resorts to such an act, it would be an abuse

of its powers and functions.

25. The aforesaid discussion would lead us to conclude that once the judgment of this Court inter parties has become final and there is no element of fraud at the time of delivering the judgment by this Court, the said judgment would bind the parties and operate as a *res judicata*. The subsequent judgment of the Apex Court laying down the proposition of law different than the one on the basis of which the judgments are delivered by this Court and have attained finality cannot be reopened. Quietness will have to be given to the litigation. The protection granted by this Court to the employment of the petitioners in the writ petitions filed by them earlier bind the parties and shall continue.

26. In the light of the above, the Government Resolution dated 21st December, 2019 shall be read in a manner not to include the employees whose tribe claims are invalidated, but are granted protection in employment under the judgments/orders of this Court and the said judgments/orders have attained finality.

27. In view of the aforesaid, the impugned communications placing the petitioners on supernumerary posts are quashed and set aside.

28. Rule accordingly is made absolute in above terms. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]
bsb/May21