

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

WRIT PETITION NO. 8319 OF 2021

Sandip Suresh Mali and Ors. } Petitioners

Versus

**Maharashtra Public Service }
Commission and Ors. } Respondents**

Mr. Kishor Patil with Mr. Arjun Pawar i/b. Mr. Shrikant Patil for the petitioners.

Mr. P. P. Kakade-Government Pleader with Ms. R. A. Salunkhe-AGP for State.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- DECEMBER 22, 2021

PC :-

1. The Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short) by its order dated July 6, 2021, recorded on Original Application No. 21 of 2021, has declined interim relief and called upon the parties to exchange their pleadings. In this writ petition dated October 5, 2021, such order of the Tribunal declining interim relief is under challenge.

2. We have heard the learned advocates for the parties and perused the impugned order. Interim relief was declined by the Tribunal by referring to certain authorities that were cited at the bar.

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3. Mr. Patil, learned advocate for the petitioner submits that the Tribunal having considered the ratio of the decision in **Niravkumar Dilipbhai Makawana vs. Gujarat Public Service Commission and Ors.**, reported in (2019) 7 SCC 383, as relevant although such case arose out of selection made by a different Public Service Commission based on certain prevalent rules, which are absent so far as the State of Maharashtra is concerned, and therefore could not have been considered to be relevant, seeks twin directions. First, a clarification that the Tribunal would proceed to hear the parties finally without being influenced by the observations made in paragraph 27 of its order and secondly, to expedite hearing of the original application. If these directions are made, he submits that the same would leave the petitioners satisfied.

4. In view of the aforesaid submission, we find no reason to interfere with the impugned order. The writ petition stands disposed of making it clear that the observations, contained in paragraph 27 of the impugned order or other paragraphs thereof, having been made by the Tribunal only for the purpose of consideration of the prayer for interim relief, any such observation would not preclude the petitioners to persuade the Tribunal not to follow the decision in **Niravkumar Dilipbhai Makawana** (supra) and/or to consider the petitioners' grievance without being influenced thereby or the other authorities referred to in the impugned order.

5. We are informed that the respondents have filed their reply affidavit before the Tribunal and that the petitioners are

in the process of preparing their rejoinder affidavit. Since the Tribunal has fixed January 13, 2022 as the next date for hearing, we grant the petitioners time till January 7, 2022 to file their rejoinder affidavit. The Tribunal is encouraged to decide the original application in accordance with law, as early as possible.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)