

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

931 WRIT PETITION NO.9067 OF 2022

Saleem Mohd. Hanif Shaikh,
Age; 51 years, Occ. Service (As Executive
Engineer U.P.P.
Division No. 4, Akhada Balapur,
Tal. Kalamnuri, Dist. Hingoli),
R/o; Plot No. 2, Mantri Nagar,
Nanded.

...PETITIONER
(Original Applicant)

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Water Resources,
M.S. Mantralaya, Mumbai-32.
2. The Additional Chief Secretary,
General Administration Department,
M.S. Mantralaya, Mumbai-32.
3. The Maharashtra Public Service
Commission, Through its Secretary,
5-8 Floors, Cooperej, Telephone
Exchange Bldg. Maharshi Karve
Marg. Cooperej, Mumbai-21.
4. Mr. Santosh R. Bhosale,
Executive Engineer,
Jalgaon Medium Project Division
No. 2, Jalgaon.
5. Mr. Pruthviraj M. Phalke,
Executive Engineer,
Ghodajhari Canal Division,
Nagbhid, Dist. Chandrapur.
6. Mr. Chandrashekhar K. Godbole,
Executive Engineer,
Minor Irrigation Division No. 1,

Pandharpur, Dist. Solapur.

7. Mr. Mahadev S. Kadam,
Executive Engineer,
Minor Irrigation Division,
Oros, Sindhudurg.
8. Mr. Anil V. Farkade,
Executive Engineer,
Gosikhurd Lift Irrigation Division,
Ambadi, Dist. Bhandara.
9. Mr. Pravin U. Zhod,
Executive Engineer,
Pench Irrigation Division,
Nagpur (Irrigation), Nagpur,
10. Mr. Shriram V. Hazare,
Executive Engineer,
Jigaon Project Dam &
Rehabilitation Division,
(Wan Project Division
Shegaon), Shegaon,
11. Mr. Rajesh B. Gowardhane,
Executive Engineer,
Palkhed Irrigation Division,
Nashik.
12. Mr. Vikas H. Patil,
Executive Engineer,
Dhom Canal Division No. 2,
Satara.
13. Mr. Pravin V. Khedkar,
District Water Conservation Officer,
Nashik.
14. Mr. Rajesh R. Sonone,
Executive Engineer,
Asolamendha Project Renewal
Division No. 2 Savali,
District. Chandrapur.
15. Smt. Rajani S. Deshmukh,

Executive Engineer,
Dagadi Dam Division No. 2,
Nashik.

16. Mr. Roshan D. Datwar,
Executive Engineer,
Nagpur Irrigation Division (North)
Nagpur (Irrigation) Nagpaur.
17. Smt. Priyadarshani V. Sonar,
Executive Engineer,
Sankalp Citra Division,
Kokan Bhawan, Navi Mumbai
18. Smt. Pallavi K. Jagtap
Executive Engineer,
Project Sankalp Citra Canal
Division No. 2, Pune.
19. Mr. Rajendra Kumar G. Dhodapkar,
Executive Engineer,
Pune Irrigation Division, Pune.
(Irrigation), Pune.
20. Smt. Sangeeta R. Jagtap,
Executive Engineer,
Nandur Madhemeshwar Project,
Division, Nashik.
21. Smt. Shilpa S. Magdum,
Executive Engineer,
Krushna Irrigation Division,
Satara.
22. Mr Yogesh V. Sonwane,
Executive Engineer,
State Level Technical Advisory,
Committee, Section-1 Mulyamapan
(Appraisal), Nashik.
23. Mr. Chiraj S. Dhum,
Executive Engineer,
Jalniyojan Division (Yewa),
Nashik.

24. Mr. Anurag O. Savarkar,
Executive Engineer,
Minor Irrigation Division,
Wardha.

...RESPONDENTS
(Original Respondents)

...
Advocate for Petitioner : Mr.Deshmukh Avinash S.
AGP for Respondent Nos. 1 to 3-State : Miss. R.P.Gaur
Advocate for Respondent No. 4 to 20 and 22 to 24 : Mr.Momale U.I.
and Mr.Deshmukh Mahesh S.
Advocate for Respondent Nos. 6, 8,10,14 and 16 : Mr.Uddhav L.
Momale

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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 06.09.2022.

PER COURT : (MANGESH S. PATIL, J.)

1. Heard.
2. Issue notice to the respondents.
3. The learned AGP waives service of notice for respondent Nos. 1 to 3.
4. Mr. Deshmukh h/f Mr. Momale waives service of notice for respondent Nos. 4 to 20 and 22 to 24.
5. We have heard both the sides finally.

6. The petitioner has filed the Original Application aggrieved by the fact that without finalization of the seniority list of the cadre of Executive Engineer (Civil) promotions are being given to the post of Superintending Engineer. It transpires that the ad-interim-relief was granted ex parte in terms of the prayer Clause 'E', by the order dated 09.03.2022. The prayer Clause 'E' reads as under :

“E) Pending admission, hearing and final disposal of this Original Application Resp. No. 1 may kindly be restrained from effecting any promotion to the cadre of Superintending Engineers from the cadre of Executive Engineers (Civil).”

7. From time to time, this interim relief was continued. It appears that the Original Application was heard with the consent of both the parties finally on 22.08.2022 and it was reserved for passing judgment and order.

8. It appears that, the contesting respondent Nos. 4 to 20 and 22 to 24 had already submitted an application seeking vacation of the interim relief still the Original Application was heard finally.

9. On being moved by the contesting respondents, by the impugned order dated 26.08.2022 the Tribunal has modified the interim relief in following words :

“(A) Interim relief granted by this Tribunal in O.A. No. 215 of 2022 on 09.03.2022 is hereby modified

as under :

“Pending passing of final order in Original Application No. 215 of 2022, the process of promotion from the cadre of Executive Engineers to the post of Superintending Engineer may be undertaken keeping one post of Superintending Engineer vacant.”

(B) All decisions taken by the Respondent Nos. 1 to 3 in O.A. No. 215 of 2022 regarding promotion from the post of Executive Engineers to Superintending Engineers shall be subject to outcome of the O.A. No. 215 of 2022.

(C) Accordingly M.A. No. 244 of 2022 stands disposed of with no order as to costs.”

10. We are amazed by the manner in which the Original Application has been dealt with by the Tribunal. If the interim relief was in operation till the final arguments were heard and the Original Application was reserved for judgment, we fail to comprehend as to how any further order could have been passed, that too without hearing the present petitioner who was the original applicant before the Tribunal. The interim relief which was in operation till final arguments were heard could not have been modified in this fashion.

11. Whatever may be the reasons and anxiety that was being entertained by the Tribunal regarding the delay in pronouncement of

the judgment, in our considered view, no such ex-parte order could have been passed, modifying the interim relief that was in operation till the Original Application was heard finally.

12. We allow the Writ Petition. The impugned order is quashed and set aside. The interim relief that was in operation since beginning shall continue till pronouncement of the final judgment by the Tribunal.

13. The Tribunal is requested to make every endeavour to decide the Original Application finally as early as possible.

14. We have not expressed anything on merits.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE

mahajansb/