

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9803 OF 2022

Santosh B Patil & Ors ...Petitioners
Versus
The State of Maharashtra Through Secretary ...Respondents
Home Department & Ors

AND
WRIT PETITION NO. 9805 OF 2022

Shankar Mahamed Mutekar & Ors ...Petitioners
Versus
The State of Maharashtra Through Secretary ...Respondents
Home Department & Ors

Mr Sandeep S Dere, for the Petitioner in both matters.
Mr PP Kakade, GP, with BV Samant AGP, for State.

CORAM G.S. Patel &
Gauri Godse, JJ.
DATED: 18th August 2022

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PC:-

1. The Writ Petition is directed against an order of 8th August 2022 of the Maharashtra Administrative Tribunal (“MAT”), Mumbai Bench. The Applicants sought an order from the MAT that in view of the judgment dated 4th August 2017 of this High Court in

Civil Writ Petition No. 2797 of 2015 (*State of Maharashtra & Ors v Vijay Ghogre & Ors*), the Applicants should be granted a deemed date of promotion. They sought an order that they should be placed as per seniority. In issue was a Government Resolution dated 7th May 2021.

2. It appears that on 9th June 2022, pending a Reply from the State Government, the MAT directed that nobody would be promoted until the filing of the Reply so as to avoid further complications. This position was not disturbed until the impugned order of 8th August 2022.

3. By that date, on 15th June 2022, the Reply had already been filed. The OA appears to have been then fully argued.

4. The MAT seems to have taken notice of the fact that against the Bombay High Court order in *Vijay Ghogre*, the State Government had filed a Special Leave Petition. That Petition is pending even today. No interim orders have been passed. There is no stay of the Bombay High Court order and decision. To the contrary, it seems that the State Government has been implementing this Court's directions and order in *Vijay Ghogre*. The MAT in paragraph 9 of its impugned order noted that the question of reservations in promotion required the collection of quantifiable data. It seems to have been told across the Bar, though not on Affidavit, that the work of collecting the quantifiable data was in progress but as yet incomplete.

5. The MAT then proceeded on the assumption or on the likelihood of a decision one way or the other in the pending Special Leave Petition. This is reflected in paragraphs 10, 11 and 12 of the impugned order. The MAT modified its earlier order of 9th June 2022, vacated the stay and said that the promotions to the post of Police Inspector were to be given in accordance with the GR dated 7th May 2021. But the applicability or inapplicability of that GR to the Petitioners was indeed the question to be decided. We do not see how the MAT could have speculated as to a likely outcome in the Supreme Court and effectively bypassed the otherwise binding decision of this Court in *Vijay Ghogre*.

6. We notice that the OA is as yet pending. In paragraph 13 the MAT has fixed the matter on 7th September 2022 but also said that a further Reply is required.

7. We request to the MAT to dispose of the OA finally at the earliest and to do so without being in any way influenced by the impugned order, especially its observations in paragraphs 8 to 13. As regards paragraph 13, we restore until final disposal of the OA the previous interim/ad-interim order of 9th June 2022.

8. The Petitions are disposed of in these terms with no order as to costs.

(Gauri Godse, J)

(G. S. Patel, J)