

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

WRIT PETITION NO. 8528 OF 2023

Shri Abhijeet Raghunath Suryawanshi,
Age 35, Occu. Service,
as Assistant Traffic Inspector,
R/o Traffic Branch, Divisional Office,
MSRTC, Aurangabad Division,
Aurangabad. .. Petitioner

Versus

1. The Vice Chairman and Managing
Director, Maharashtra State Road
Transport Corporation, Maharashtra
Vahatuk Bhavan, Dr. Anandrao Nair
Marg, Mumbai Central,
Mumbai 400 008.
2. The General Manager (P & I. R.),
Maharashtra State Road
Transport Corporation, Maharashtra
Vahatuk Bhavan, Dr. Anandrao Nair
Marg, Mumbai Central,
Mumbai 400 008.
3. The Divisional Controller,
MSRTC Aurangabad Division,
Aurangabad.
4. The Divisional Traffic Officer,
MSRTC Aurangabad Division,
Aurangabad. .. Respondents

Shri Satish P. Dhobale, Advocate for the Petitioner.
The Respondent Nos. 1 to 3 served.
Shri D. S. Bagul, Advocate for the Respondent No. 4.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 27 JULY 2023.**

ORAL JUDGMENT (*Per Mangesh S. Patil, J.*) :-

. Rule. Rule made returnable forthwith. At the joint request of the parties matter is heard finally at the stage of admission.

2. Heard learned counsel for the petitioner and the learned advocate Mr. Bagul for the respondent No. 4 finally.

3. The petitioner who is serving as an Assistant Traffic Inspector is aspiring for the promotional post of Traffic Inspector. The process is being undertaken by the respondents pursuant to the circular dated 10 January 2023. He claims that inspite of being a senior, he has not been called for the interview.

4. Affidavit in reply filed on behalf of the respondent Nos. 3 and 4 *inter alia* mentions that resorting to the marking system, confidential reports of last five years are taken into consideration and marks are assigned maximum of 50 for each year and the only candidates who secure bench mark of 50% average of five years of confidential record are called for interview.

5. During the course of arguments, it transpires that annual confidential reports of the petitioner were not communicated to him and he has preferred administrative appeal on 20 May 2023

(Exhibit – G), which was received by the Appellate Authority on 25 May 2023. It is to be noted that the respondents have their own arrangement devised for writing confidential reports in the form of administrative circular dated 01 July 2017. It *inter alia* enables an employee to approach the superior officer against the adverse entries. It is also pertinent to note that these circular also comprehends a situation want of communication resulting in depriving them of promotional post and provides for a mechanism for challenging those adverse entries before the reviewing officers.

6. When the petitioner's such administrative challenge has been pending with the respondents, if the current process of promotion is allowed to be completed depriving him of an opportunity to compete, it would be a permanent loss.

7. In view of such an eventuality and the exigency, we feel it appropriate that keeping open all the issues, if the petitioner is permitted to participate in the on going process and his performance is made subject to the final outcome of the decision to be taken pursuant to his appeal challenging the adverse entries in the confidential reports that would be in the fitness of the things.

8. The writ petition is partly allowed. The respondents shall permit the petitioner to participate in the on going promotional

process for the post of Traffic Inspector. His performance in the process shall be subject to the final outcome of the decision to be taken by the superior i. e. in the Administrative Appeal/challenge to the adverse entries in the confidential reports. Since the order is dictated in the open Court in presence of the officer of the respondents, the respondents shall not wait for the copy of this order.

9. Rule is made absolute in above terms.

10. Parties to act on authenticated copy of this order.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/July 23