



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

8 WRIT PETITION NO. 6719 OF 2024

RASHMI SHANKARRAO KHANDEKAR

VERSUS

**UNION PUBLIC SERVICE COMMISSION THROUGH ITS
SECRETARY AND OTHERS**

...

Shri S.S. Thombre, Advocate for the Petitioner.

Shri Ajay G. Talhar, DSGI for Respondent Nos.1 and 2/ UoI.

Shri A.B. Girase, Government Pleader a/w Ms.Neha B. Kamble,
AGP for Respondent Nos.3 to 5/State.

...

CORAM : RAVINDRA V. GHUGE

&

Y. G. KHOBRAGADE, JJ.

DATE :- 08th July, 2024

Per Court :-

1. The Petitioner has put forth prayer clauses B, C, D,
E and F as under:-

- “(B) *By issuing a writ of certiorari, orders, directions or any other appropriate writ in the like nature, the order dated 19th June, 2024 passed by Hon'ble Central Administrative Tribunal, Mumbai Bench at Mumbai in Original Application No. 284 of 2024, whereby the learned Tribunal refused an interim relief as prayed for by the petitioner, may kindly be quashed and set aside;*
- (C) *Pending hearing and final disposal of this writ petition, the effect, operation, implementation and execution of the impugned order dated 19th June, 2024 passed by Hon'ble Central*

Administrative Tribunal, Mumbai Bench at Mumbai in Original Application No. 284 of 2024, whereby the learned Tribunal refused an interim relief as prayed for by the petitioner, may kindly be stayed, and for that purpose issue necessary orders;

- (D) Pending hearing and final disposal of this writ petition, the Respondents may kindly be directed to withhold the process of promotion to the post of IAS from the Select List (Seniority List) as on 01.01.2023 prepared From among the candidates of Maharashtra state revenue service until fulfillment of all criterias for promotion to IAS cadre and until final decision of the OA 284 of the applicants pending at Central Administrative Tribunal;*
- (E) Pending hearing and final disposal of this writ petition, the effect, operation and implementation of the promotion process being conducted by the Respondents which is being conducted by virtue of Government Gazette Notification No. RNI No.MAHBIL/2009/31745, Extraordinary No.62 Authorised Publication dt.9.7.2019, which had excluded the names of officers from Maharashtra Development Services in the seniority list being prepared for promotion to IAS Cadre from amongst the candidates of State Civil Services, may kindly be withheld, and for that purpose, issue necessary orders;*
- (F) Pending hearing and final disposal of this writ petition, grant ad interim relief in terms of prayer clauses (C), (D) and (E) as above, and for that purpose, issue necessary orders;”*

2. We have considered the strenuous submissions of the learned Advocate for the Petitioner Shri Thombre. He has specifically drawn our attention to the Indian Administrative

Service (Recruitment) Rules, 1954 [Rule 2(g)(ii)] and the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 [Regulation 2(j)(ii) r/w Regulation 5].

3. He has then drawn our attention to the view taken by the learned Single Judge Bench of the Madras High Court, vide judgment dated 28.04.2022, delivered in Writ Petition No.17643/2012 (***P. Anandhraj and others vs. The Government of Tamil Nadu and others***) and a bunch of cases wherein, the learned Single Judge has concluded in paragraph No.6 as under:-

“6. *From the above, it can be deduced that an Officer of the State, who is in-charge of a sub-division of a District, for the purposes of Revenue and General Administration and also persons holding higher responsibility, can be included in the State Civil Service. Hence, any responsible Officer, being the Head of a sub-division of a District, in the fields of Revenue as well as General Administration is eligible to be included in the "State Civil Service". Apart from this, any Officer, who is holding the post of higher responsibility is also eligible to be included in the "State Civil Service".*”

4. Shri Thombre has then drawn our attention to the view taken by the learned Division Bench of the Madras High

Court vide judgment dated 15.09.2022, in Writ Appeal No.1583/2022 (***R. Alagumeena and others vs. P. Anandhraj and others***) and a bunch of appeals, wherein, the same view has been taken. He submits, on instructions from the Petitioner, that the Honourable Supreme Court has not interfered with the view taken by the Madras High Court.

5. We have perused the extensive paragraph No.28 of the impugned interim order dated 19.06.2024 passed by the learned Central Administrative Tribunal, Mumbai. The issue raised by the Petitioner along with the other Applicants before the learned Tribunal is, that if the services of Deputy Collectors are not approved by the Central Government to be brought under the shelter of the Maharashtra State Civil Services, then, the present Petitioner as like other Applicants before the Tribunal, who are granted equivalence as Deputy Collectors by the State of Maharashtra, will also have to accompany such Deputy Collectors, either for being included in the zone of consideration or for being excluded together. If the Deputy Collectors are not approved by the Central Government to be brought under the shelter of the State Civil Services and if the Petitioner and other

Applicants are granted equivalence as Deputy Collectors, all these officers in this category will have to be treated at par. Therefore, the argument of Shri Thombre, which prima facie appears to be convincing, is that if the Deputy Collectors, in these circumstances, are being considered to be a part of the State Civil Services, then, the Petitioner cannot be excluded.

6. We agree with the learned AGP that this Court may not entertain this petition since the main proceedings are scheduled for a hearing on 10.07.2024 (Wednesday) before the learned Tribunal. The learned AGP points out the view of the learned Tribunal *“We agree with him (Advocate for original Applicants before the Tribunal) that the respondents have not brought on record anything to show that the services of Deputy Collectors have been approved by the Central Government for bringing them under the canopy of State Civil Service. However, that does not enure to the benefit of the applicants because it is exclusively within the domain of the Central Government and the State Government to consider whether services of officers of Maharashtra Development Service should be included in State Civil Service or not.”*

7. The learned AGP, therefore, adds that the State Government, at the time of final argument before the learned Tribunal, may point out that the services of the Deputy Collectors have been approved by the Central Government for being treated as a part of the State Civil Service.

8. In view of the above, this **Writ Petition is disposed off** with a request to the learned Central Administrative Tribunal, Mumbai, dealing with Original Application No.284/2024, that it may consider the view taken by the learned Single Judge Bench of the Madras High Court in No.17643/2012 (***P. Anandhraj and others vs. The Government of Tamil Nadu and others***) and the view taken by the Division Bench of the Madras High Court in Writ Appeal No.1583/2022 (***R. Alagumeena and others vs. P. Anandhraj and others***), while considering (a) whether, the present Petitioner/ original Applicants before the Tribunal have been granted equivalence as Deputy Collectors by the State of Maharashtra, and (b) if the Deputy Collectors without approval of the Central Government can be brought under the canopy of the State Civil Service, whether, the Petitioner, who is granted

equivalence, could be excluded.

9. Since the Tribunal has expressed, by way of a passing reference in paragraph No.28, that the State Government has not brought any relevant records before it, we call upon the learned Government Pleader of the Aurangabad Bench Shri Girase, as well as the learned DSGI Shri Talhar, to convey to their counterparts before the learned Tribunal, to place records before the Tribunal so as to avoid any order being passed in the absence of certain records or documents.

10. Considering the stakes involved, let the litigating parties advance final arguments at the earliest before the Tribunal.

11. Considering the heavy burden with the learned Tribunal, we request the Tribunal that the judgment be delivered as expeditiously as possible.