

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16025 OF 2022

1. Shri. Dattatray Maruti Bansude,
2. Shriram Aabaji Patil,
3. Hanmant Narshing Tamke,
4. Shambhuraj Shantaram Jadhav,
5. Tatyasaheb Prakash Ballal,
6. Rahul Balasaheb Lokhande,
7. Ashish Gajananrao Barlawar,
8. Suhas Babasaheb Batule,
9. Pravin Ramesh Sathe,
10. Santosh Vitthalrao Mahajan,
11. Jitendra Dattatray Pawar,
12. Hemant Shantaram Behare,
13. Amit Ankush Kedari,
14. Amol B. Deshmukh,
15. Ganesh Atmaram Payghan,
16. Vinayak Hanmant Shinde,
17. Bipin Dadarao Wadaskar,
18. Nilesh Shivaji Thakre,
19. Gajanan Tatyaba Aarekar,
20. Narendra Abhiman Pawar,
21. Tushar Hanmantrao Salunkhe,
22. Dipak Shivmurti Kolhe,
23. Pramod Dattatraya Ugale,
24. Sachin Haribhau Desale,

25. Sandip Vaman Shinde,
26. Sachin Shankar Chile,
27. Navnath Shankar Kadam,
28. Bhanudas Genba Chandgude,
29. Ranjeet Santosh Bhosale,
30. Manish S. Chaturvedi,
31. Bhagawant Mohan Wagh,
32. Shrikant Chandrakant Gaikwad,
33. Ashwin Shivlochan Mishra,
34. Chandrashekhar Y. Raghort,
35. Hemant Namdeorao Mundarale,
36. Suresh Anandaro Dadas,
37. Kiran Laxman Mane,
38. Santosh Narayan Saka,
39. Ravindra Vishwanath Munde,
40. Shivaji Shankar Gore,
41. Mahavir Dilip Kute,
42. Somnath Sahdev Mandlik,
43. Sanjaykumar Pandit Rathod,
44. Vijay Nayabrao Ingle,
45. Ananta Sahebrao Jawale,
46. Devendra Dagadu Vende,
47. Santosh Manik Sangle,
48. Shakil Mahamadhanif Shaikh,
49. Ganesh Namdev Bambarse,
50. Rahul Sarjerao Gaikwad,
51. Sandip Haribhau Jadhav,

52. Rajendra Arjuna Patil,
53. Sumit Bhimrao Surjuse,
54. Dattatray Manohar Pawar,
55. Rayshing Kishansing Chavan,
56. Pradeep Ramesh Nannavare,
57. Sudhakar Shivaji Shendge,
58. Manoj Ashok Patil,
59. Pandurang Bhimrao Patil,
60. Shahid Rafiq Shaikh,
61. Shripad Vilasrao Chavan,
62. Madhav Balaji Jayebhaye,
63. Pritesh Dagadu Chaudhari,
64. Jagdish Shamrao Mandale,
65. Navedali Shahadataali Saiyyad,
66. Sandip Damodar Ghuge,
67. Rahul Vishwanath Mali,
68. Nitin Sadashivrao Kamdi,
69. Anuradha Vitthal Shinde,
70. Prafull Sunil Supekar,
71. Sachin Vasanttrao Bawane,
72. Sanjay Dinkar Badare,
73. Shankar Bhanudas Sarje,
74. Vinod Prakash Chavan,
75. Sunil Marotrao Hulgunde,
76. Vaijnath Parmeshwar Anantwar,
77. Madhav Bapurao Gutte,
78. Nikhil Pandurangrao Mahure,

79. Hemant Ramesh Mahadik,
80. Shailendra Surendrasingh Thakur,
81. Krushna Nandu Pustode,
82. Yuraj Shriram Sonule,
83. Samadhan Balkrushna Tonde,
84. Shivanand Nagnathrao Kangule,
85. Dnyanoba Kishanrao Kawthekar,
86. Jivanath Mahadev Dongare,
87. Santosh Namdev Kudale,
88. Mahammadmubin Shoukat Patait,
89. Vaibhav Vikas Atre,
90. Sunil Bhaskar Giri,
91. Pravin Shivaji Jadhav,
92. Subhash Ankush Shingate,
93. Sharad Tukaram Patil,
94. Nilesh Ankush Shendkar,
95. Amol Rangrao Gund,
96. Ashok Vasudeo Pisal,
97. Nitin Vasantrao Gawande,
98. Sandeep Suryavhan Manke,
99. Sandeep Shivaji Tikande,
100. Navanath Shivaji Devakate,
101. Nikhil Jagannath Jadhav,
102. Santosh Damodar Bhor,
103. Vishal Ashok Thorat,
104. Deepak Sahebrao Patil,
105. Babaso Gulab Mulla,

106. Prakash Bharamappa Pujari,
107. Sanjay Uttamrao Mhaske,
108. Rehan aji Shaikh,
109. Amol Jalindar Thorat,
110. Kiran Dilip Patil,
111. Kiran Vilas More,
112. Tejab Raosaheb Rankhamb,
113. Jagdish Shamrao Mandale,
114. Santosh Dilip Hojage,
115. Ganesh Sudhakar Rao Shelke,
116. Shankar Mohanrao Yabaji,
117. Balaji Pandharinath Kadam,
118. Manoj Hanmant Yadav,
119. Dipak Babanrao Deshamukh,
120. Ravindra Arjuna Patil,
121. Dhanaji Dhondiram Patil,
122. Narayan Shivaji Furade,
123. Sachin Vilas Patil,
124. Pramod Dilip Sawant,
125. Satnam Singh Sukhwant Singh Nijjar,
126. Vijay Bhagwan Mahajan,
127. Amol Parasu Bamane,
128. Shankar Bhaurao Mate,
129. Ganapati (Ganesh) Annaraya Metkar,
130. Naresh Vitthalrao Vairagal,
131. Tanaji Shivaji Tagad,
132. Bhimrao Ganapatrao Pawar,

133. Rajendra Janardhan Galave,

134. Duryodhan Bhonde.

...Petitioners

**Versus**

1. The State of Maharashtra,  
Through the Chief Secretary,  
Mantralaya, Mumbai 400032.
2. The Secretary,  
Home Department, Mantralaya,  
Mumbai - 400032.
3. The Secretary,  
General Administration Department,  
Mantralaya, Mumbai 400032.
4. The Secretary,  
Law and Judiciary Department,  
Mantralaya, Mumbai 400032.
5. The Director General of Police,  
Shahid Bhagat Singh Road,  
Colaba, Mumbai 400001.
6. The Secretary,  
Maharashtra Public Service Commission,  
5<sup>th</sup>, 7<sup>th</sup> and 7<sup>th</sup> Floor,  
Cooprej Telephone Exchange Bldg,  
Maharshi Karve Marg,  
Cooprej, Mumbai 400021.
7. Manoj Raghunath Rathod,  
R/at. Ambedkar Road, Pahade Chawl,  
Nanded 423104.
8. Hanumant Bhagwat Rakusale,  
R/at. Khadki (Khandobachi Wadi)  
Post. Devala, Ghat Sawli,  
Beed- 431122.
9. Ishwar Digambar Holambe,

R/at. Helamb, Parali Vaijanath, Beed.

10. Dilip Shyam Rathod  
R/at. Lakshmi Bhavan Bldg.,  
Room No. 28, Kala Chowky,  
Jakhariya Bandar Road, Mumbai 400033.

11. Avinash Atmaram Achgekar,  
R/at. At Post. Honewadi, Tal. Aajra,  
Dist. Kolhapur – 416505

...Respondents

WITH  
**INTERIM APPLICATION (STAMP) NO.3538 OF 2024**  
IN  
**WRIT PETITION NO.16025 OF 2022**

Vishnukant Govind Waghmare & Ors ...Applicant/Respondent

**In The Matter Of:-**

Dattatray Maruti Bansude & Ors. ...Petitioners

**Versus**

The State of Maharashtra & Ors. ...Respondents

WITH  
**INTERIM APPLICATION NO.16443 OF 2023**  
IN  
**WRIT PETITION NO.16025 OF 2022**

Manoj Rathod ...Applicant/Respondent

**In the matter of:-**

Dattatray Maruti Bansude & Ors. ...Petitioners

**Versus**

State of Maharashtra & Ors. ...Respondents

WITH  
**WRIT PETITION NO.13970 OF 2022**

1. Sandip Bapu Fulpagare,

2. Kashav Motiram Kakad,
3. Ravindra Hilal Koli,
4. Nilesh Ganpatrao Bideger,
5. Ravindra Ramdas Gunjal. ...Petitioners

**Versus**

1. Manoj Raghunath Rathod,
2. Hanumant Bhagwat Rakusale,
3. Ishwar Digambar Holambe,
4. Dilip Shyam Rathod,
5. Avinash Atmaram Achgekar,
6. The State of Maharashtra,  
Through the Additional Chief Secretary,  
Home Department, Mantralaya,  
Mumbai - 400032.
7. The State of Maharashtra,  
Through the Secretary,  
General Administration Department,  
Mantralaya, Mumbai 400032.
8. The Director General of Police  
Shahid Bhagat Singh Road,  
Colaba, Mumbai 400001.
9. Maharashtra Public Service Commission,  
5<sup>th</sup>, 7<sup>th</sup> and 7<sup>th</sup> Floor, Cooprej Telephone  
Exchange Bldg., Maharshi Karve  
Marg, Cooprej, Mumbai 400021.
10. The State of Maharashtra,  
Through Chief Secretary,  
Mantralaya, Mumbai-400032.
11. The State of Maharashtra,  
through Secretary, Law & Judiciary Dept.

12. Parvate Sandip Goraksha
13. Gunvanta Hari Boinwad
14. Mahesh Hanumant Pande
15. Gopane Bhagwat Marutirao
16. Rathod Santosh Bapurao
17. Gaikwad Avinash Prakash
18. Nemane Indrajit Shahaji
19. Kapase Pravinkumar Jalindar
20. Burange Sakharam Angad
21. Taware Ramesh Tanaji
22. Mali Vikas Uttam
23. Tanaii Vyankatrao Patil
24. Bhanudas Genba Chandgude
25. Shaikh Mobeen Navaj
26. Dadas Suresh Anandrao
27. Mohite Bhaskar Baliram
28. Anantkawalas Mahesh Dinkar
29. Shinde Manesh Chandrakant
30. Bhosle Ranjeet Santosh
31. Shendge Hanumant Bhau
32. Shinde Arun Vinayak
33. Desai Uday Chandrakant
34. Bandgar Amol Balasaheb
35. Palve Ramhari Bhagwan
36. Wasade Pankaj Suryabhanji
37. Radye Mangesh Sitaram
38. Nikhil Pandurang Mahure
39. Dive Mangesh Tukaram
40. Pisalkar Umesh Arvindrao
41. Patil Sachin Vilas
42. Ramesh Babulal Sapkal
43. Patil Mandar Madhukar
44. Abhijit Gorakh Kanse
45. Rankhamb Tejab Raosaheb
46. Bagadi Satish Ishwara
47. Kolhe Dipak Shivmurti

48. Surve Amit Bharat
49. Bhabad Manohar Eknath
50. Mane Rahul Dinkar
51. Jadhao Vijay Panjabrao
52. Giri Vishnu Gangadhar
53. Pradip Nimba Chaudhari
54. Dalvi Deepak Ramesh
55. Pakhale Atul Balasaheb
56. Seema Gorakhnath Bade
57. Balasaheb Shivaji Khodve
58. Sawant Rahul Krushna
59. Dongare Jivnath Mahadev
60. Rahul Vishwanath Mali
61. Mehesare Shyam Ramesh
62. Juabai Panditrao Dahiphale
63. Ghodke Bappasaheb Santrao
64. Tatyasaheb Prakash Ballal
65. Kadam Navnath Shankar
66. Gawade Hemraj Eknath
67. Kanase Yuvraj Babasaheb
68. Pavale Navanath Balaso
69. Kattojwar Neelesh Gorakhrao
70. Bharati Anil Kashinath
71. Jadhao Santosh Babu
72. Dongre Mayur Tukaram
73. Sandip Laxman Patil
74. Khan Imran Aslam
75. Shaikh Akhtar Abdul Rheman
76. Takbhate Nitin Dattatraya
77. Padole Ashish Devidas
78. Manikeri Vitthal Baburao
79. Deshmukh Amol Bisan
80. Kore Rahul Shivaji
81. Mahajan Kiran Babarão
82. Barlawar Ashishkumar Gajananrao
83. Satpaise Kishor Parashram

84. Sarkar Sushil Sunil
85. Thombre Datta Ashok
86. Shrikant Bhagwan Dahiphale
87. Sandip Vaman Shinde
88. Pankaj Uttamrao Ingle
89. More Kiran Vilas
90. Choudhari Ramesh Suryakant
91. Pathan Chandkhan Sahebkhani
92. Mohammad Waseem Shaikh Lukman
93. Magdum Sanket Sanjay
94. Jadhav Shambhurai Shantaram
95. Pawar Vinod Bhaskar
96. Patil Pandurang Bhimrao
97. Kiran Vitthal Jagdale
98. Tiwari Manojkumar Ramrasile
99. Andhale Manish Bapurao
100. Suraj Naresh Fadatade
101. Salunkhe Tushar Hanmantrao
102. Mundafale Hemant Namdeorao
103. Murkute Kishor Pandurang
104. Thakur Shailendra Surendra
105. Laxmikant Dharma Dhondage
106. Pawar Dipak Dnyandeo
107. Sudhakar Gopal Wadikar
108. Mate Shankar Bhaurao
109. Karvekar Satej Krishnat
110. Anpat Poonam Popat
111. Mandle Jagdish Shamrao
112. Pujari Prakash Bharamappa
113. Patle Santosh Babulal
114. Bawane Sachin Vasantarao
115. Jadhav Pravin Shivaji
116. Ashish Laxman Botake
117. Muneshwar Kamlesh Shriram
118. Jagtap Ganesh Satish
119. Patule Tanaji Limbraj

120. Siddheshwar Trimbak Gaikwad
121. Kulkarni Anant Pandurang
122. Meera Subhash Rokade
123. Mohammad Majeed Ibrahim
124. Gadhave Dadasaheb Nehalchand
125. Lohar Mahadev Subhash
126. Pustode Krushna Nandu
127. Deshmukh Dipak Babanrao
128. Bande Tanaji Machindranath
129. Nadaf Saipansaheb
130. Hawale Kiran Rajendra
131. Kaspate Ganesh Shahaji
132. Ashwini Dnyandeo Bhosale
133. Anil Balu Nimbalkar
134. Pingale Nagesh Shankarrao
135. Dipak Hari Pachpor
136. Hulgunde Sunil Maarottrao
137. Shelke Ganesh Sudhakarrrao
138. M Daud Vahajjudin
139. Mohare Dineshsing Hanumansing
140. Nujjar Satnamsingh Sukwantsingh
141. Abraham Ruby Daniel
142. Mundhe Sunil Daulat
143. Deore Dinesh Manik
144. Vishal Sudhakarrrao Mahalkar
145. Sanap Sukhadeo Laxmanrao
146. Shrikant Chandrakant Gaikwad
147. Pramod Dattatrya Ugale
148. Badare Sanjay Dinakar
149. Furade Narayan Shivaji
150. Devkar Umesh Mahadev
151. Lakhakar Abhinand Rameshrao
152. Shripad Vilasraochavan
153. Ashwin Shivlochan Mishra
154. Jadhav Devidas Arjun
155. Chawhan Sandip Dilipsingh

156. Sharma Gauri Rampal
157. Gaikwad Rahul Sarierao
158. Davhale Ashishkumar Arunkumar
159. Deepak Dhang
160. Rajendra Prakash Jadhao
161. Nagargoje Vishnu Gangaram
162. Kalbande Dattatraya Bhagwanrao
163. Ashok Shankar Sawanji
164. Salunkhe Sushilkumar Dnyandeo
165. Rathod Atul Baliram
166. Mahajan Santosh Vitthalrao
167. Tembhe Santosh Jagannath
168. Gaikwad Vishal Sadashiv
169. Kargal Mahendra Tukaram
170. Manish Jagannath Talewar
171. Govekar Shailendra Kashinath
172. Ganapati Annaraya Metakari
173. Pakhale Nilesh Dnyaneshwar
174. Ram Sunil Ariun
175. Madhav Shivajirao Waghchaure
176. Supekar Prafull Sunil
177. Wadaskar Bipin Dadarao
178. Choudhari Nagesh Suryakant
179. Pathan Siraj Alimkhan
180. Shaikh Ramu Sikandar
181. Kangule Shivanand Nagnathrao
182. Mahajan Vijay Bhagwan
183. Rahul Balasaheb Bhagwat
184. Kudale Santosh Namdev
185. Bolange Vitthal Uddhavrao
186. Pawar Somnath Abhimanyu
187. Mallav Sudhir Suresh
188. Ghatmal Kishor Kacharu
189. Thombare Jaykar Maruti
190. Navkhare Ghanshyam Suresh
191. Bondre Nilesh Pandurangappa

192. Rathod Vikas Nagnath
193. Wagh Bhagwant Mohan
194. Navale Lahu Ramchandra
195. Anjan Subhash Gadade
196. Kumavat Machhindra Shyamrao
197. Shendge Sudhakar Shivaji
198. Dandade Vaibhav Vasantrao
199. Shaikh Shakil Mohamadhanif
200. Mohite Pawan Dinkar
201. Shaikh Rihana Hamid
202. Dattatraya Ravan Suryawanshi
203. Baral Dilip Dasharth
204. Pawar Gunvant Baliram
205. Pramod Subhash Jagtap
206. Manusmare Dinesh Shankar
207. Darade Narendra Ashok
208. Mohandas Ashok Patil
209. Nitin Sadashiv Kamdi
210. Nangare Dattatray Rajendra
211. Jitendra Sukhadeo Tijare
212. Naik Ankush Babu
213. Raghort-Chandrashekhar Yadav
214. Bhongade Sachin Dhanraj
215. Pathan Altaf Lateef
216. Misal Samadhan Yashwanta
217. Gutte Madhav Bapurao
218. Bhaisare Manoj Wasudeo
219. Misal Dnyandeo Tukaram
220. Thombe Gajanan Uttamrao
221. Anil Sakharam Patil
222. Patil Prashant Rajaram
223. Jadhav Anupam Bhaskar
224. Chopade Hitesh Vinayak
225. Ananta Sahebrao Jawale
226. Ingle Vuay Nayabrao
227. Bulange Sunil Munjaji
228. Abhuit Maruti Bhor

229. Darade Ramdas Shankarrao
230. Vaunath Parmeshwar Anantwar
231. Manure Ashif Mulaka
232. Shaikh Bakthar Musa
233. Vitthal Haribhau Munde
234. Suryawanshi Rajkumar Dindayal
235. Hajare Arjun Dhondiram
236. Mandlik Somnath Sahdev
237. Mahendra Maruti Khanapure
238. Kishor Anandrao Thakur
239. Raut Narendra Atmaram
240. Dahiphale Pratapsinh Bhagawan
241. Chirde Bharat Anandrao
242. Malgaonkar Ramchandra Mohan
243. Kshrisagar Ananta Govindrao
244. Deshmukh Rahul Vidhyadhar
245. Patel Komal Kanhaiyalal
246. Vinayak Narayan Shinde
247. Bhor Santosh Damodhar
248. Atre Vaibhav Vikas
249. Patil Nitin Prabhakar
250. Bavane Satish Vinayak
251. Bansude Dattatraya Maruti
252. Chouhan Raising Kisansing
253. Raut Akshay Namdeorao
254. Ghansham Kawduji Marwadi
255. Rathod Sanjaykumar Panditrao
256. Gogawale Amol Krushana
257. Hojage Santosh Dilip
258. Sapkale Satish Dayaram
259. Satote Dipak Mahadu
260. Gupta Pradeep Rajkumar
261. Rane Amol Gopinath
262. Prakash Raghunath Patil
263. Chavan Shivaji Anil
264. Pratibha Krishnarao Ninawe

265. Sonule Yuvraj Shriram
266. Kalmegh Vikram Vinodrad
267. Kishor Hiranman Solanke
268. Dhapaté Bhimrao Kantilal
269. Kiran Dilip Patil
270. Chavan Manoj Janardhan
271. Kobarne Balasaheb Popat
272. Powar Sachin Baburao
273. Gaikwad Deepak Subhash
274. Gulhane Vijay Haridasrao
275. Ghuge Sandip Damodar
276. Kawale Vikas Dhanlal
277. Ramjan Madarso Shaikh
278. Shaikh Ibrahim Mahibub
279. Ingle Rupesh Uttamrao
280. Paul Dilip Dharmraj
281. Payghan Ganesh Atmaram
282. Dhapaté Bhimrao Kantilal
283. Kiran Dilip Patil
284. Chavan Manoj Janardhan
285. Kobarne Balasaheb Popat
286. Powar Sachin Baburao
287. Gaikwad Deepak Subhash
288. Gulhane Vijay Haridasrao
289. Ghuge Sandip Damodar
290. Kawale Vikas Dhanlal
291. Ramjan Madarso Shaikh
292. Shaikh Ibrahim Mahibub
293. Ingle Rupesh Uttamrao
294. Paul Dilip Dharmraj
295. Payghan Ganesh Atmaram
296. Gaikwad Nilesh Nivrutti
297. Deepak Baliram Argade
298. Chavhan Sujit Devidas
299. Jadhao Sandip Haribhau
300. Mandokar Janrao Ajabrao

301. Mahadik Hemant Ramesh
302. Devendra Bacharam Thorat
303. Chavan Vikas Vilas
304. Chorage Vishal Govind
305. Thorat Niteeraj Dinkarrao
306. Mundhe Bharat Madhav
307. Rajesh Choturam Ghalde
308. Sarkar Bikramjit Sukumar
309. Lahudkar Santosh Kisan
310. Devde Bhushan Sukdev
311. Mundhe Tushar Kailas
312. Shelke Nitin Rangnath Patil
313. Suraj Sanjay Suvarna
314. Pawshe Rohidas Tarbhau
315. Gopal Gokul Pundlik
316. Chandan Hiralal Sakala
317. Mane Ganesh Tanaji
318. Mane Kiran Laxman
319. Anil Mahadev Tambade
320. Ghatole Ajay Nandkishor
321. Shekh Nabi Shekh Afsar
322. Sadgir Sudam Uttam
323. Avhad Siddhesh Dattatray
324. Suryawanshi Rahul Subhash
325. Kadam Rajesh Ravindra
326. Ghuge Dinesh Jagannath
327. Behare Hemant Shantaram
328. Bhonde Duryodhan Sovinda
329. Dhekane Jayaram Lahu
330. Lendave Dattatraya Bhanudas
331. Nirmal Amol Ramesh
332. Mante Sandeep Suryabhan
333. Pakhare Somanath Ajinath
334. Shankar Bhanudas Sarje
335. Pimpalpalle Gajanan Nivrutti
336. Pole Vishnu Baliram
337. Rampure Amasidha Kashianth

338. Bhosale Jotiba Manoharrao
339. Vinod Prakash Chavan
340. Jiten Baliram Gaonkar
341. Deshmukh Prakash Sudhakar Rao
342. Dhatrak Sachin Shantaram
343. Annasaheb Vitthal Dighe
344. Jalak Vishnu Tukaram
345. Amol Rangraoji Gund
346. Jadhav Bhagwat Sakharan
347. Gholve Anant Vishnu
348. Mulla Babaso Gulab
349. Chavhan Shankar Ramrao
350. Chobe Nanasaheb Ramhari
351. Fulare Santosh Ashok
352. Amol Ananda Chougale
353. Surajuse Sumit Bhimrao
354. Nanaware Sadashiv Arvind
355. Jagtap Jayadatta Dasu
356. Salunkhe Mahesh Suresh
357. Pawar Nanasaheb Dasharath
358. Pawar Mohan Suresh
359. Deshmukh Anil Panjabrao
360. Yogesh Gokul Deore
361. Pawar Gaianan Devsing
362. Rathod Anand Chandu
363. Sonawane Vikas Ramdas
364. Khamate Bhagwan Rangnath
365. Sachin Devidas Jivade
366. Sachin Suresh Yerunkar
367. Tigile Hanumant Ankush
368. Janghale Pawansing Ambarsing
369. Patil Dipak Sahebrao
370. Yenape Dattatray Shrishail
371. Manoj Balakrishna Vikhankar
372. Wadghule Devidas Ganpat
373. Jadhav Chandrakant Uttam
374. Gore Shivaji Shankar

375. Musale Pintu Popat
376. Dangat Sapana Jabaji
377. Chaudhari Yogesh Suresh
378. Mali Swati Bhimrao
379. Bhosale Ranjit Vasantrao
380. Sathe Pravin Ramesh
381. Ekshinge Sampat Ratan
382. Pawar Kashinath Pawar
383. Minde Vishal Eknath
384. Kharde Shivanand Gaianan
385. Pathe Kiran Namdeo
386. Dhekane Hanumant Khandu
387. Raskar Vaibhav Namdev
388. Sarak Shobharaj Balaso
389. Sangle Santosh Manik
390. Sawant Ajay Vitthal
391. Rupesh Moreshwar Halmare
392. Vishal Abhiman Kale
393. Phadke Sateesh Ananda
394. Arekar Gajanan Tatyaba
395. Bambarse Ganesh Namdeo
396. Kedari Amit Ankush
397. Khamkar Pramod Mansing
398. Patil Ravindra Arjuna
399. Mahesh Gajanan Parankar
400. Dipak Tukaram Wagave
401. Birajdar Siddharam Mallinath
402. Kale Amol Balasaheb
403. Shinde Gokuldas Tanaji
404. Vinayak Hanmant Shinde
405. Sharad Deoram Dhangar
406. Srágar Lingappa Nivruti
407. Santosh Narayan Saka
408. Nilesh Ramdas Wankhade
409. Gite Devidas Nivrutti
410. Kankhar Sandip Madhukar

411. Karande Pravin Laxman
412. Rathod Rekha Babusing
413. Bamane Amol Parasu
414. Kendre Hanmant Laxuman
415. Vandana Ranuba Thok
416. Pradeep Ramesh Nannaware
417. Patil Suresh Raghunath
418. Kshirsagar Santosh Baban
419. Kale Kiran Raghunath
420. Khot Motiram Bhalchandra
421. Badgujar Yashpal Mohanrao
422. Dombé Sharad Dnyanobarao
423. Shaikh Ajimruddin Kamruddin
424. Burungule Yogesh Arjun
425. Suryakant Dattatraya Darade
426. Dhore Rajendra Manohar
427. Kawthekar Dnyanoba Kishanrao
428. Nagargoje Shivkant Eknath
429. Shinde Dattatray Anna
430. Avhad Shekhar Bhaskar
431. Ghodke Bhushan Dinkar
432. Chavan Suresh Subhash
433. Jakkalwad Niloba Maroti
434. Buchake Ganesh Bharat
435. Chavan Sulkshana Pandit
436. Pisal Sachin Sahebrao
437. Kadam Balaji Pandharinath
438. Ghodke Narayan Rambhau
439. Walhe Jitendra Ashok
440. Rokade Nivas Zumbar
441. Bhamare Sunil Amrut
442. Delekar Sangram Pandurang
443. Tamke Hanmant Narshigh
444. Bagul Pannalal Shivaji
445. Munde Ravindra Vishwanath
446. Thorat Amol Jalindar
447. Pritesh Dagadu Chaudhari

448. Sunil Sadashiv Vagre
449. Patil Deepak Bhika
450. Phad Sandeep Kachru
451. Pawar Kiran Baburad
452. Chavan Kaviraj Bhimrao
453. Patil Sangram Hindurad
454. Shingate Subhash Ankush
455. Solankar Ravikumar Namdeo
456. Nitin Dadaso Hange
457. Raut Ajay Harihar
458. Chavan Manoj Ramchandra
459. Athawale Amardeep Ramchandra
460. Jarwal Kesharsing Fulsing
461. Patil Mahesh Balasaheb
462. Chavan Gangaram Onyandeo
463. Yadav Manoj Hanamant
464. Patait Mahamadmubin Shoukat
465. Tikande Sandeep Shivaji
466. Sanap Namdeo Uttam
467. Shaikh Shahid Rafik
468. Shaikh Imran Siraj
469. Jagtap Amol Balu
470. Santosh Shivraj Patil
471. Chetanlal Dhannulal Patle
472. Pawar Narendra Abhiman
473. Gite Haridas Gite
474. Dhotre Sarika Sheshrao
475. Khandekar Rahul Chandrakant
476. Sawwashe Nitin Arjun
477. Satish Subhashrao Gawande
478. Thakre Rahul Madhusudan
479. Thorat Vishal Ashok
480. Dipak Shravan Wankhede
481. Sayyad Irfan Yunus
482. Dokare Swami Banduji
483. Pisal Ashok Vasudeo
484. Sarika Bajrang Gatkul

485. Prakash Ashok Katkade
486. Pal Sanjay Uddhao
487. Yogesh Baban Raje
488. Jagtap Manisha Patilsaheb
489. Wasane Nitin Sheshraoji
490. Koli Mangesh Shrawan
491. Devakate Navanath Shivaji
492. Jadhav Prakash Manohar
493. Lavate Sagar Vitthal
494. More Yogesh Manik
495. Khot Urmila Jalindar
496. Sunil Sambhaji Kamble
497. Gote Bajirao Narayan
498. Kamlesh Shivprasad Sharma
499. Ghorpade Ayodhya Prakash
500. Thakre Nilesch Shivaji
501. Madane Yogesh Haridas
502. Shikalgar Shakeel Balu
503. Salunkhe Abasaheb Bhagawanrao
504. Bhosale Tatya Anna
505. Dhumal Sagar Suryakant
506. Balsaraf Jotiram Vitthal
507. Rajendra Sovinda Borkar
508. Sandeep Uttamrao Chavan
509. Magare Dadabhai Adhar
510. Pawar Bhimrao Ganparao
511. Kotwale Raising Garbadsing
512. Shinde Deepak Bajarang
513. Waghmode Mahadeo Sampat
514. Shendkar Nilesch Ankush
515. Sayyed Jarinabi Raisoddin
516. Sulakhe Chetan Satish
517. Bhosale Hariba Vitthal
518. Anil Suresh Mohite
519. Bankar Ganesh Dattatray
520. Mahandule Vinayak Govindrao
521. Avhad Harish Ramesh

522. Darade Anna Madhukar
523. Dhonde Yogesh Chandrakant
524. Ghadge Dnyaneshwar Jagannath
525. Thombare Vikas Tukaram
526. Tagad Tanaji Shivaji
527. Pawar Avinash Vittalrao
528. Waghmare Dattatraya Sudhakar
529. Jiri Sachin Dasharath
530. Shinde Sachin Balkrishana
531. Machhale Rakesh Ramesh
532. Vinod Chudaman Bar!
533. Jadhav Nikhil Jagannath
534. Pawar Shashikant Narayan
535. Potekar Tushar Tanaji
536. Madhav Balaji Jayebhaye
537. Zanzane Amit Ramchandra
538. Chavhan Prashant Bharat
539. Buva Pravin Ravindra
540. Salgare Hanmant Ganesh
541. Patil Ranjit Vishnu
542. Bangar Hanumant Raosaheb
543. Giri Sunil Bhaskar
544. Vairagal Naresh Vitthalrao
545. Patil Sharad Tukaram
546. Yerunkar Swapnil Sunil
547. Patil Sachin Namdev
548. Patil Sakshatkar Narayan
549. Kumbhar Pravin Ramdas
550. Devendra Dagadu Vende
551. Suhas Babasaheb Batule
552. Patil Dhanaji Dhondiram
553. Patil Pravin Sahebrao
554. Shinde Santosh Arun
555. Pawar Jitendra Dattatray
556. Kale Vuendra Bandopant
557. Gaikwad Amit Rajendra
558. Padole Manohar Bhimrao

559. Patil Shivaji Tukaram
560. Navedali Sahadataali Saiyyed
561. Chile Sachin Shakrar
562. Chavan Jayashri Shivaji
563. Rathod Sunil Dharma
564. Satyabhama Yeshwant Kharat
565. Patil Shriram Abaji
566. Zagade Amol Pralhad
567. Raju Kumar Palve
568. Lokhande Rahul Balasaheb
569. Jadhav Netaji Sampatrao
570. Gaikwad Bapu Dnyanraj
571. Yogesh Sunil Patil
572. Gawande Nitin Vasantrao
573. Harne Mangesh Dnyandeo
574. Bappasaheb Ambadas Dhaktode
575. Gitte Kailas Madhav
  
576. Mujawar Aslam Miraso
577. Bhosale Shivaji Rajaram
578. Karande Nitin Sudam
579. Shinde Anuradha Vitthal
580. Ranaware Satish Popat
581. Thombare Navnath Bhivsen
582. Santosh Shivaji Katre
583. Pathan Imrankha Nurullakha
584. Salvi Darshana Shashikant
585. Galave Rajendra Janardhan
586. Hembade Suraj Dadasaheb
587. Munde Bibishen Pralhad
588. Mahajan Walmik Eknath
589. Dhakne Prakash Pandharinath
590. Sayyad Rasul Jabbar
591. Jadhav Yogesh Hanumant
592. Deshmukh Shankar Gajendra
593. Wagh Gajanan Eknath
594. Nilesh Govindrao Ahire

595. Sagar Tryambak Aavate
596. Sisode Gajanan Murlidhar
597. Chaudhari Dhanraj Manik
598. Kharat Sanjay Mukinda
599. Korade Amar Ramdas
600. Chavhan Sunil Vikram
601. Phule Mahadev Pralhadrao
602. Sawant Pramod Dilip
603. Awachar Mahadeo Dnyandeo
604. Gadekar Shashikant Shriram
605. Chavhan Santosh Rama
606. Pathan Taikhan Munirkhan
607. Chute Pradip Nilkanth
608. Patil Mayur Panjabrao
609. Katkar Kailas Hindurao
610. Prakash Jagannath Chandewar
611. Shaikh Rehan Aju
612. Kute Mahavir Dilip
613. Bade Santosh Pandurang
614. Pavitrakar Dipak Chandrasahya
615. Jadhav Avinash Kuber
616. Kudale Aniket Shivaji
617. Suryawanshi Rakesh Laxman
618. Chaturvedi Manish Shivprasad
619. Tonde Samadhan Balkrushna
620. Sankpal Pradip Hanmant
621. Barakade Amit Jagannath
622. Mane Tukaram Manaji
623. Nighut Sachin Shivaji
624. Binnar Ramhari Dagdu
625. Teli Pravin Suresh
626. Narale Asha Ganpatrao
627. Nand Sanjay Mohan
628. Lahare Balu Fakirchand
629. Gadhe Yogesh Machindranath
630. Yabaji Shankar Mohanrao
631. Aher Suresh Anurudra

- 632. Devkar Vishal Mahadev
- 633. Vasudeo Chandrakant Shinde
- 634. Gosavi Praful Ashok
- 635. Giree Gajanan Bhikaji
- 636. Patil Manoj Ashok
- 637. Patil Pradip Devram
- 638. Ugale Bhikaji Ramnath
- 639. Mahajan Premnath Namdeo
- 640. Devendra Gairaj Suryawanshi ...Respondents

**WITH**  
**INTERIM APPLICATION NO.16445 OF 2023**  
**IN**  
**WRIT PETITION NO.13970 OF 2022**

Manoj Rathod ...Applicant/Respondent

**In the matter of:-**

Sandip Bapu Fulpagare & Ors. ...Petitioners

**Versus**

Major Rathod & Ors. ...Respondents

**WITH**  
**WRIT PETITION NO.14333 OF 2022**

- 1. Sandip Laxman Patil,
- 2. Deepak Bhika Patil,
- 3. Hemant Ramesh Mahadik,
- 4. Sachin Shivaji Nighut,
- 5. Pintu Popat Musale,
- 6. Pramod Mansing Khamkar,
- 7. Sudam Uttam Sadgir,
- 8. Nitin Arjun Sawwashe,
- 9. Narendra Atmaram Raut,
- 10. Amol Gopinath Rane,
- 11. Sateesh Ananda Phadke,
- 12. Amol Anant More,
- 13. Abasaheb Bhagawanrao Salunkhe,
- 14. Sangram Pandurang Delekar,

15. Ranjit Vishnu Patil,
16. Mahendra Maruti Khanapure,
17. Shankar Gajendra Deshmukh,
18. Mandar Madhukar Patil,
19. Santosh Baban Kshirsagar,
20. Prakash Manohar Jadhav,
21. Komal Kanhaiyalal Patel,
22. Devendra Bacharam Thorat,
23. Vasudeo Chandrakant Shinde,
24. Praful Ashok Gosavi,
25. Madhav Shivajirao Waghchaure,
26. Sarika Sheshrao Dhotre,
27. Kaviraj Bhimrao Chavan,
28. Seema Goraknath Bade,
29. Dilip Darsharath Baral,
30. Sunil Dharma Rathod,
31. Satish Dayaram Sapkale,
32. Dnyandeo Tukaram Misal,
33. Macchindra Shamrao Kumavat,
34. Manesh Chandrakant Shinde,
35. Jijabai Pandit Dahiphale,
36. Sachin Sahebrao Pisal,
37. Arun Vinayak Shinde,
38. Dipak Shravan Wankhede,
39. Tushar Hanmantrao Salunkhe,
40. Sachin Vilas Patil,
41. Tatyasaheb Prakash Ballal,
42. Sachin Haribhau Desale,
43. Hemant Shantaram Behare,
44. Sunil Bhaskar Giri,
45. Navnath Shankar Kadam,
46. Pradeep Ramesh Nannavare,
47. Pravin Shivaji Jadhav,
48. Subhash Ankush Shingate,
49. Nikhil Jagannath Jadhav,
50. Bhikaji Ramnath Ungale,
51. Kiran Namdeo Pathe,
52. Hariba Vitthal Bhosale,

53. Siddhesh Dattatray Avhad,
54. Narendra Abhiman Pawar,
55. Devendra Dagadu Vende,
56. Mangesh Sitaram Radye,
57. Amol Balasaheb Kale,
58. Ashwini Dyandev Bhosale,
59. Amol Balasaheb Bandgar,
60. Ankush Babu Naik,
61. Ramchandra Mohan Malgaonkar,
62. Anant Pandurang Kulkarni,
63. Nagesh Shankarrao Pingale,
64. Manohar Eknath Bhabad,
65. Anupam bhaskar Jadhav,
66. Swami Banduji Dokare,
67. Nitin Vasant Rao Gawande,
68. Pravinkumar Jalindar Kapase,
69. Tejab Raosaheb Rankhamb,
70. Pritesh Dagadu Chaudhari,
71. Jagdish Shamrao Mandale,
72. Rajendra Janardhan Galave,
73. Sandeep Shivaji Tikande,
74. Devidas Nivrutti Gite,
75. Rahul Sarjerao Gaikwad,
76. Santosh Shivaji Katre,
77. Darshana Shashikant Salvi,
78. Vaibhav Vikas Atre,
79. Hemraj Eknath Gawade,
80. Sachin Devidas Jiwade,
81. Dipak Haribhau Pachpor,
82. Pradeep Rajkumar Gupta,
83. Narendra Ashok Darade.

...Petitioners

**Versus**

1. The State of Maharashtra,  
through the Chief Secretary,  
Mantralaya, Mumbai-400032.

2. The Secretary,  
Home Department,  
Mantralaya, Mumbai-400032.
3. The Secretary,  
General Administration Department,  
Mantralaya, Mumbai-400032.
4. The Secretary,  
Law and Judiciary Department,  
Mantralaya, Mumbai-400032.
5. The Director General of Police,  
Shahid Bhagat Singh Road,  
Colaba, Mumbai-400001.
6. The Secretary,  
Maharashtra Public Service Commissioner,  
5<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floor,  
Cooprej Telephone Exchange Building,  
Maharshi Karve Marg,  
Cooprej, Mumbai-400021.
7. Manoj Raghunath Rathod,  
R/at Ambedkar Road, Pahade Chawl,  
Nanded, Maharashtra – 423104.
8. Hanumant Bhagwat  
R/at Khadki (Khandobachi Wadi),  
Post, Devala, Ghat Sawli,  
Beed-431122.
9. Ishwar Digambhar Holambe,  
R/at. Helamb, Parali Vaijanath, Beed.
10. Dilip Shyam Rathod,  
R/at. Lakshmi Bhavan Building,  
Room No.28, Kala Chowky,  
Jakhariya Bandar Road,

Mumbai – 400033.

11. Avinash Atmaram Achgekar,  
R/at. Post Honewadi, Tal. Aajra,  
Dist. Kolhapur – 416505.

...Respondents

WITH  
**INTERIM APPLICATION NO.16444 OF 2023**  
IN  
**WRIT PETITION NO.14333 OF 2022**

Manoj Rathod

...Applicant/Respondent

**In the matter of:-**

Sandip Bapu Fulpagare & Ors.

...Petitioners

**Versus**

State of Maharashtra & Ors.

...Respondents

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Mr. Ravi R. Shetty a/w. Mr. Sandeep Dere for the Petitioners in WP/16025/2022.

Mr. Akhilesh Dubey a/w. Mr. Sushant Walimbe, Mr. Hrutik Chavan and Ms. Srushty Kamble i/b. Ms. Aarti Nishad for the Respondent Nos.7 to 11 in WP/16025/2022 & WP/14333/2022 and for Respondent Nos.1 to 5 in WP/13970/2022.

Dr. Birendra Saraf, Advocate General a/w. Mr. P. P. Kakade, Government Pleader, Mr. B. V. Samant, Addl. G. P., Mr. M. M. Pable, AGP and Ms. Kavita N. Solunke, AGP for the Respondent (State).

Ms. Sunita G. Sonawane a/w. Mr. Sahil Choudhari for Applicant in IAST/3538/2024.

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CORAM : A. S. CHANDURKAR,  
JITENDRA JAIN, J.J.

Date on which the Arguments were concluded : 26<sup>th</sup> February 2024.

Date on which the Judgment is pronounced : 20<sup>th</sup> March 2024.

**JUDGMENT :- (Per Jitendra Jain, J.)**

1. **Rule.** Rule made returnable forthwith. By consent of the parties heard finally.

2. This group of petitions raises common issues and, therefore, are disposed of by this common judgment. We, therefore, propose to deal with facts in Writ Petition No.16025 of 2022 for the purpose of our adjudication.

**Challenge :-**

3. By this petition under Article 226 of the Constitution of India, the Petitioners are challenging the order dated 25<sup>th</sup> March 2022 passed by the Mumbai Bench of the Maharashtra Administrative Tribunal ('Tribunal') in Original Application (O.A.) No.733 of 2019. Since the said order follows the order passed by the Aurangabad Bench of the Tribunal in O.A. No.722 of 2019 dated 4<sup>th</sup> March 2022, the Petitioners have also challenged the said order passed by the Aurangabad Bench of the Tribunal whereby the Tribunal has quashed the Government Resolution dated 22<sup>nd</sup> April 2019 to absorb 636 candidates who have secured 230 and above marks.

4. The present petition relates to the recruitment advertised in June 2016 through Limited Departmental Competitive Examination (LDCE) 2016 and therefore, it is relevant to note important events which has resulted into the petition being heard by this Court finally.

5. **Narrative of events:-**

(i) On 27<sup>th</sup> June 2016, the Respondent No.1-State issued an

advertisement for 828 vacancies for the post of PSI. The breakup of the said 828 post are as under:-

| Sr. Nos.              | Category                           | No. of Posts |
|-----------------------|------------------------------------|--------------|
| 1                     | Scheduled Caste                    | 108+9*=117   |
| 2                     | Scheduled Tribes                   | 47           |
| 3                     | Vimukta Jati/Denotified Tribes (A) | --           |
| 4                     | NT (B)                             | 1            |
| 5                     | NT (C)                             | --           |
| 6                     | NT (D)                             | --           |
| 7                     | Special Backward Class             | 16+5*        |
| 8                     | Open                               | 642          |
| <b>Total</b>          |                                    | <b>828</b>   |
| <b>*Backlog Posts</b> |                                    |              |

(ii) The above table indicates that out of 828 vacancies, 642 vacancies were to be filled by “Open Category” and the balance 186 were to be filled from “Reserved Category”.

(iii) The above vacancies of 186 posts from reserved category were based on Maharashtra State Public Services (Reservation for Scheduled Caste, Scheduled Tribes, Denotified Tribes, Nomadic Tribes, Special Backward Category and Other Backward Classes) Reservation Act, 2001. Under the said Act, the State issued a Government Resolution dated 25<sup>th</sup> May 2004 reserving 33% in promotion for Scheduled Caste, Scheduled Tribes, Denotified

Tribes, Nomadic Tribes, Special Backward Category and Other Backward Classes. The said Reservation Act and the Government Resolution was subject matter of challenge before this High Court in Writ Petition No.2797 of 2015 in the case of Vijay Ghogre & Ors. There was a difference of opinion between two learned Judges of this Court and, therefore, a reference was made to a third learned Judge.

(iv) On 4<sup>th</sup> August 2017, after receiving the opinion of the third learned Judge, the Division Bench of this Court passed the following order:-

**ORDER**

- (i) *The impugned judgment and order dated 28 November 2014 of Maharashtra Administrative Tribunal to the extent it strikes down the Reservation Act is set aside and the issue of constitutional validity of the Reservation Act is kept open for determination in appropriate case and on an appropriate occasion;*
- (ii) *The Government Resolution dated 25 May 2004 is struck down to the extent it makes provisions for reservation in matters of promotions in favour of Scheduled Caste, Scheduled Tribes, De-Notified Tribes (A), Nomadic Tribes (B), Nomadic Tribes (C), Nomadic Tribes (D) and Special Backward Classes, being ultra vires Article 16(4A) of the Constitution and contrary to the law laid down in M. Nagaraj case.*

The effect of this order was that the Government Resolution dated 25<sup>th</sup> May 2004 notifying the reservation in promotion was struck down being ultra-vires to Article 16(4A) of the Constitution and contrary to the law laid down in *M. Nagaraj Vs. Union of India*<sup>1</sup>

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<sup>1</sup> (2006) 8 SCC 212

case. This means there cannot be reservation in promotion. The reasoning of this decision was reservation in the absence of quantifiable data was bad.

- (v) Meanwhile, there was a dispute relating to age relaxation for LDCE 2016 examination, as to whether the age relaxation issued by Government Resolution dated 25<sup>th</sup> April 2016 is applicable to the advertisement dated 27<sup>th</sup> June 2016 to fill up 828 posts of PSI. This Court in Writ Petition No.6631 of 2017 in the case of ***Sushant Salvi vs. State of Maharashtra*** pronounced an order on 28<sup>th</sup> September 2017 by holding that the Government Resolution dated 25<sup>th</sup> April 2016 relaxing age criteria is applicable only for direct recruitment at the initial fresh entry in the Government Service and not applicable to selection of “in-service” candidates by way of promotion and since LDCE 2016 recruitment was selection by promotion, the age relaxation would not be applicable.
- (vi) In view of what was observed by this Court in the case of ***Sushant Salvi***, Respondent No.6-MPSC revised list of candidates selected who appeared for LDCE – 2016 by excluding those candidates who were overaged. Thereafter, 642 candidates from open category and 186 from reserved category were sent for training to Nasik.
- (vii) On 5<sup>th</sup> March 2018, Respondent No.1-State sent additional 154

candidates for training in addition to 828 (642+186) candidates which were already sent for training resulting into an aggregate of 982 (642+186+154) candidates. The Respondent No.1-State realised that sending original 186 candidates from reserved category for training was contrary to the dictum of Vijay Ghogre's decision. However out of original 186 candidates from Reserved Category, 32 qualified on merit so as to be treated under open category and therefore the State was left with 154 reserved candidates. To offset these 154 reserved category candidates, additional 154 candidates were sent from the merit list. However, the Respondent No.1-State did not call back the 154 reserved category candidates but they were absorbed. This resulted into 2 groups of 154 candidates, namely first group of 154 reserved candidates who were originally sent and second group of additional 154 open category candidates who were sent subsequently. *An undertaking was taken from the candidates from open category and in the appointment letter to the reserved category it was stated that their appointment was subject to the decision of the Supreme Court in the case of Vijay Ghogre.* This resulted into 982 (828+154) candidates being selected for training under LDCE – 2016 against 828 post being advertised. These additional candidates were sent consequent to the decision of this

Court in the case of ***Vijay Ghogre (supra)***.

(viii) Being aggrieved by the aforesaid decision of the State to send additional 154 candidates for training, Miscellaneous Application No.472 of 2018 in Original Application No.394 of 2018 was filed before the Tribunal at Mumbai by one Mr. Santosh Bapurao Rathod & Others. The Tribunal on 4<sup>th</sup> October 2018 passed an ex-parte ad-interim order with notice to the Respondents therein to show-cause as to why the order should not be made absolute in following terms :-

- (a) *32 reserved category candidates out of 186 in open merit competition (out of 186 candidates), stand protected.*
- (b) *All such candidates who have been sent for training for Police Sub Inspector's post i.e. 154 (out of 186) in number who are amongst added respondents, who are chosen for promotion for filling in vacancies by promotion of candidates belonging to category for whom reservation is provided, shall not be given any benefits of training which they have undergone.*
- (c) *Government shall be free to restore 154 candidates to the posts from which they were sent for training or at any posts, or keep them waiting at the choice of State and candidates however State shall not do anything, which shall amount to recurrent violation of the order of Hon'ble High Court Writ Petition No.2797/2015 shall be done.*

(ix) On 6<sup>th</sup> November 2018, Original Application No.394 of 2018 alongwith Miscellaneous Application Nos.472 of 2018 and 586 of 2018 were disposed of. The Tribunal held that the judgment of the Bombay High Court in Writ Petition No.2729 of 2015 (***Vijay Ghogre***) stands completely overruled post the judgment in the case

of **Jarnail Singh**. The Tribunal further held that post **Jarnail Singh's** judgment dated 26<sup>th</sup> September 2018, there is no ambiguity and, therefore, the fate of 154 candidates is no more hazy or in suspended animation. Further the Respondent No.1-State was directed to abide by the judgment of the Supreme Court in the case of **Jarnail Singh**. The Tribunal took the view that test of quantifiable data for reservation laid down by **Vijay Ghogre's** decision is no more good law post para 21 of the decision in the case of **Jarnail Singh** which reads thus :

*"21. Thus, we conclude that the judgment in **Nagaraj (supra)** does not need to be referred to a seven-Judge Bench. However, the conclusion in **Nagaraj (supra)** that the State has to collect quantifiable data showing backwardness of the Schedule Castes and the Schedule Tribes, being contrary to the nine-Judge Bench in **Indra Sawhney (1) supra** is held to be invalid to this extent."*

However, the Tribunal observed that the Applicants were free to make a suitable representation to the Government if they were so advised and if such a representation was made, the Government was to consider it in due course and on its own merits.

- (x) On 22<sup>nd</sup> April 2019, the Respondent No.1-State issued a Government Resolution to send 636 additional candidates for training. Consequently, the total candidates sent for training pursuant to LDCE – 2016 advertisement increased to 1618 (642 Original Open Category + 186 Reserved Category = 828 + 154

(**Vijay Ghogre**) + 636 G.R. dated 22<sup>nd</sup> April 2019 = 1618). The said Government Resolution came to be challenged before the Tribunal, Aurangabad Bench in O.A. No.722 of 2019. The stay of the said G. R. granted was vacated on 30<sup>th</sup> November 2019 and the candidate affected by the said order challenged the same before the High Court at Aurangabad in Writ Petition No.15045 of 2019 in the case of **Gajanann Bapulal Bansode & Ors. Vs. State of Maharashtra**.<sup>2</sup>

(xi) On 6<sup>th</sup> March 2020, the aforesaid Writ Petition No.15045 of 2019 was disposed of. The order reads thus:-

#### ORDER

[I] *The respondents may send these 636 persons for training of nine (09) months.*

[II] *We request the tribunal to decide the Original Application No. 722 of 2019, preferably within a period of nine (9) months so that before the posting/ appointment orders are issued the original application would be decided and all the issues would be finally adjudicated in the original application.*

[III] *The parties shall co-operate in expeditious disposal of the proceedings.*

[IV] *The applicants in the intervention application filed in the present writ petition shall be arrayed as party respondents by the petitioners.*

[V] *The parties shall appear before the tribunal on 12.03.2020.*

[VI] *As the date has been given, it is not necessary to issue separate notice to these intervenors who are added as parties.*

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2 Writ Petition No.15045 of 2019 decided on 6<sup>th</sup> March 2020

(xii) The aforesaid order passed in Writ Petition No.15045 of 2019 was challenged before the Supreme Court and the Supreme Court on 5<sup>th</sup> February 2021 in Civil Appeal No.104 of 2021 (***Gajanan Babulal Bansode & Ors. Vs. State of Maharashtra & Ors.***) held that the Authority cannot fill up more than the notified number of vacancies advertised. The recruitment of candidates in excess of notified vacancies would be violative of Articles 14 and 16(1) of the Constitution of India. The Supreme Court allowed the Civil Appeal and set aside the order of the Tribunal dated 30<sup>th</sup> November 2019 and the order passed by this Court in Writ Petition No.15045 of 2019 dated 6<sup>th</sup> March 2020. It also stayed the Government Resolution dated 22<sup>nd</sup> April 2019 till the pendency of the proceedings before the Tribunal. The Supreme Court further directed the Aurangabad Bench of the Tribunal to decide the O.A. within a period of six months with a direction that 636 candidates be heard in the adjudication proceedings. Relevant paragraphs of the said order of the Supreme Court reads thus:-

*“14. Rule 5 of the Police Sub-Inspector (Recruitment) Rules, 1995 provides that notwithstanding anything contained in these rules, if in the opinion of the government, the exigencies of service require, the ratio prescribed for appointment by promotion, on the basis of Limited Departmental Examination or nomination, may be relaxed with the prior consultant of the Commission.*

*The Government would be required to establish before the Tribunal as to whether there were any extra-ordinary circumstances which have warranted the exercise of power under Rule 5, which may be resorted to*

*only in rare and exceptional circumstances.*

*15. The impugned G.R. seeks to fill up double the number of vacancies which were notified for the LCDE – 2016 by the Circular dated 27.06.2016. It is well-settled in service jurisprudence that the authority cannot fill up more than the notified number of vacancies advertised, as the recruitment of candidates in excess of the notified vacancies, would be violative of Articles 14 and 16 (1) of the Constitution of India.”*

6. Pursuant to above, the Aurangabad Bench of the Tribunal on 4<sup>th</sup> March 2022 passed a detailed order and quashed Government Resolution dated 22<sup>nd</sup> April 2019 by which 636 candidates were sought to be absorbed and consequently allowed the O.A. No.722 of 2019. This order of the Aurangabad Bench of the Tribunal was followed by the Mumbai Bench in O.A. No.733 of 2019 and allowed reliefs (a), (b) and (c) which read as under :-

*“ (a) to quash and set aside the G.R. dated 22.04.2019.*

*(b) hold and declare that the action of Respondent filling the posts under GR dated 22/04/2019 is ultra vires of the Constitution and the prevalent legal position.*

*(c) Recall all the acts done by the Police department in furtherance of the implementation of the G.R dated 22.04.2019.”*

7. It is on this backdrop that the Petitioners being aggrieved by the quashing of the Government Resolution dated 22<sup>nd</sup> April 2019 by which 636 candidates were sought to be absorbed by sending them for training are before us challenging the orders passed by the Aurangabad Bench of the Tribunal in O.A. No.722 of 2019 dated 4<sup>th</sup> March 2022 and Mumbai Bench of the Tribunal in O.A. No.733 of 2019 dated 25<sup>th</sup> March 2022.

**Submissions of the Petitioners : -**

8. The Petitioners submit that their rights under Articles 14 and 16 of the Constitution of India have been violated and the Respondent No.1-State has created class within class as per their own policy decision but the present Petitioners have been left out of consideration and therefore, they have challenged the said action in the present petition. The Petitioners further submit that the Respondent No.1-State has been taking contradictory stand with respect to 154 candidates who were sent for training by stating on oath that the LDCE selection is a direct recruitment and in the same breath stating that the selection by direct recruitment is not applicable to in-service candidates. The Petitioners submitted that the State cannot approbate and reprobate at the same time. The Petitioners relied upon various affidavits filed before the Tribunal by the Respondent No.1-State, advertisement for recruitment, Government communications and G.R. to contend that LDCE – 2016 is a selection by promotion of in-service candidates and not direct recruitment as now sought to be contended by the State. The Petitioners further submitted that the selection of original 154 candidates from reserved category was contrary to the decision of this Court in **Vijay Ghogre's** case (*supra*) and therefore these 154 reserved candidates cannot be recruited. The Petitioners further submitted that to counter-balance the same, the Respondent No.1-State sent second

batch of 154 candidates and both these groups of 154 candidates each were subjected to an undertaking that their recruitment is dependent upon the outcome of the decision in the case of *Vijay Ghogre's*. The Petitioners, therefore, submitted that it cannot be said that 154 candidates are selected from the merit list. The Petitioners submitted that the impugned Government Resolution dated 22<sup>nd</sup> April 2019 was adopted by the State as a corrective measure to select all the candidates who scored 230 or more than 230 marks to protect the rights of these candidates under Articles 14 and 16 of the Constitution of India. The Petitioners further submitted that concept of “transitional arrangement” by subjecting the two groups of 154 candidates to an undertaking is unknown to service jurisprudence. They further submitted that reservation in promotion is upheld by the Supreme Court in *M. Nagaraj's case*.

9. The Petitioners also contended that 154 candidates selected on merits have been confirmed on 6<sup>th</sup> October 2018 and other 154 reserved candidates are confirmed on 20<sup>th</sup> November 2018 on the basis that it was not a promotional examination. The Petitioners have relied upon their written submissions and prayed that the writ petition be allowed by setting aside the impugned Tribunal orders.

**Submissions of the Contesting Respondent No.1 : -**

10. The Respondent No.1 State raised a preliminary objection with respect to the maintainability of the writ petition on the ground that since these Petitioners are the candidates in excess of posts advertised, they cannot file the present petition because they cannot be considered at all. The Respondent No.1 -State further submitted that it is not open to the Petitioners to assert the rights on the basis of the Government Resolution dated 22<sup>nd</sup> April 2019 and at the same time to call in question the action of the Government. The Respondent No.1-State further submitted that *de hors* the Government Resolution dated 22<sup>nd</sup> April 2019, the Petitioners have no right whatsoever to promotion. The Respondent No.1-State has categorically stated that the Government has not challenged the order dated 4<sup>th</sup> March 2022 in Original Application No. 722 of 2019 by which the Government Resolution dated 22<sup>nd</sup> April 2019 has been set aside. The Respondent No.1-State, therefore, prayed for dismissal of the Writ Petition.

**Analysis and Conclusions : -**

11. We have heard the learned counsel for the Petitioners, learned Advocate General for the Respondent No.1-State and learned counsel for the other Respondents. With their assistance we have perused the documents annexed to the petition, submissions filed and

compilation of documents and judgments tendered in the course of hearing.

12. The Petitioners before us are seeking revival of Government Resolution dated 22<sup>nd</sup> April 2019 by which they were sought to be recruited as Police Sub-Inspector. These Petitioners were the Respondents before the Tribunal. The Tribunal has quashed the Government Resolution of 22<sup>nd</sup> April 2019 and therefore, the Petitioners are aggrieved by the Tribunal's order. Further, the Supreme Court in *Gajanan Bansode's* case directed the Tribunal to ensure that notice is given to these 636 candidates so that they participate in the proceedings. Therefore, in our view, it can be said that the Petitioners have locus standi to file the present petition since they are beneficiaries of the Government Resolution which is under challenge. Therefore, we reject the contention of the Respondent No.1-State on this count.

13. The next issue which arises is whether LDCE-2016 is a promotion of in-service candidates or a direct recruitment. The advertisement dated 27<sup>th</sup> June 2016 issued was on the basis that it is a promotional position since the said advertisement provided for reservation at 33%. If the advertisement was for direct recruitment then higher reservation of 50% would have been provided and since only 33% was provided, LDCE-2016 is a selection by promotion of in-service

candidates and not the case of direct recruitment. The reserved category candidates did not object to the same at any stage of the proceedings and therefore, today in the present petition cannot contend that it is the case of the direct recruitment. Furthermore, the reserved category candidates also did not raise this issue before the Tribunal but on the contrary, they proceeded before the Tribunal on the correct premise that it is the case of the promotion by placing reliance on the decision in case of *Vijay Ghogre (supra)*. Therefore, the conduct of the reserved category candidates clearly demonstrates and rightly so that LDCE-2016 is a selection by promotion of in-service candidates and not a direct recruitment. Reliance placed by the learned Advocate Dr. Mane on the decision of the Supreme Court in case of *Pavnesb Kumar Vs. Union of India*<sup>3</sup> supports the case of the respondent-State that LDCE-2016 is a mode of accelerated promotion though not normal mode of promotion. The Supreme Court in case of *Akhilesh Prasad Vs. Jharkhand Public Service Commission*<sup>4</sup> has also held that LDCE is a promotional exercise which gives an opportunity of accelerated promotion and it is not the case of a direct recruitment. This Court in the case of *Sushant Salvi (supra)* has also held that LDCE-2016 is selection by promotion of in-service persons. The Government Resolution of 27<sup>th</sup> June 2016 also states so. The requisition dated 2<sup>nd</sup> June 2016 by Respondent No.1-

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3 Civil Appeal No.3641 of 2023 decided on 28<sup>th</sup> November 2023

4 2022 SCC OnLine SC 510

State to Respondent No.6-MPSC and opinion of Law & Judiciary Department also reiterates that it is selection by promotion of in-service candidates. In our view, LDCE-2016 cannot be said to be process of direct recruitment but it is selection by promotion under Rule 3(b) of the aforesaid Recruitment Rules. Therefore, the LDCE-2016, in our view, is selection by promotion falling under Rule 3(b) of the Police Sub-Inspector Recruitment Rules, 1995.

**14.** The only issue which now arises for our consideration in this Writ Petition is whether the Respondent No.1-State was justified in issuing Government Resolution dated 22<sup>nd</sup> April 2019 to absorb additional 636 candidates in excess of original 828 candidates as per the advertisement dated 27<sup>th</sup> June 2016. If we come to a conclusion that the Respondent No.1-State was not justified in issuing such Government Resolution then 636 candidates who are proposed to be absorbed / sent for training under the said GR would not be eligible to participate for selection by promotion.

**15.** The brief facts leading to the present writ petition in chronological order are as under :-

- (a) On 27<sup>th</sup> June 2016, Respondent No.1-State in consultation with Respondent No.6-MPSC notified 828 vacancies for the post of PSI. Out of 828, 642 were to be related from open category and

balance 186 from reserved category.

- (b) Respondent No.1 realising the effect of ***Vijay Ghogre's*** decision of this Court and against which appeal was pending before the Supreme Court decided to realign the 186 vacancies by treating 32 of them as open category because of their merit and *balance 154 were informed in the appointment letter* that their appointments would be subject to outcome of the decision of the Supreme Court in the case of ***Vijay Ghogre***.
- (c) To provide for contingency of above Supreme Court decision, Respondent No.1-State decided to recruit 154 from open category with an undertaking from them that their recruitment would be subject to outcome of the Supreme Court decision in Vijay Ghogre.
- (d) Consequent to above, 982 candidates were sent for recruitment – [642+32+154(R)+154(O)].
- (e) On 22<sup>nd</sup> April 2019, Respondent No.1-State issued a Government Resolution to send 636 candidates for reasons mentioned in the said Government Resolution.
- (f) Due to above, candidates sought to be sent for training/recruitment under LDCE-2016 became 1618 (982+636).
- (g) On 25<sup>th</sup> September 2023, by an interim order of this Court in CWP/13227/2018 another 154 candidates were directed to be sent for training.

- (h) Result of above was as against 828 notified vacancies 1772 candidates were sent for training of which fate of 1098 [(154(R) + 154(O) + 636(GR) + 154(H.Ct.))] candidates was uncertain.

16. The impugned Government Resolution as translated dated 22<sup>nd</sup> April 2019 reads thus :-

GOVERNMENT RESOLUTION  
HOME DEPARTMENT

Government Resolution Number : Police-1818/M.No.355/Pole-5A

Madam Cama Marg, Hutatma Rajguru Chowk,

Mantralaya, Mumbai 400032.

Date : 22<sup>nd</sup> April, 2019

**PREFACE :-**

*The Government had received a demand to absorb on the post of Police Sub-inspector, more candidates besides 828 candidates mentioned in the recommendation list of candidates prepared by the Maharashtra Public Service Commission on the basis of the final result of the Police Sub-Inspector Limited Departmental Examination, year 2016. The said Candidates had demanded that the Maharashtra Public Service Commission had recommended 828 candidates in the Police Sub-Inspector Limited Departmental Examination, year 2016 to the Government and while sending the concerned 828 candidates as per the said Recommendation List, for training for the post of Police Sub-Inspector, it was necessary to fill up the posts reserved for the Backward Class category on the basis of merits instead of filling up the said posts category-wise, by taking into consideration the decision given on the date 04.08.2017 by the Hon'ble Bombay High Court regarding the reservation for promotion in Government service. However, while sending these 828 candidates for the training for the post of Police Sub-Inspector, as the Office of the Director General of Police sent even 186 candidates belonging to the Backward class category, from out of these 828 candidates, the contempt of the order passed by the Hon'ble Bombay High Court, Mumbai was committed. The Government, after obtaining legal advice in Original Application No.13/2018 (Shri Rajendra Chavan) filed before the Hon'ble Maharashtra Administrative Tribunal, Mumbai in this connection, took a decision to send 186 more candidates from Serial number 643 onwards in the Recommendation List as per their Merit number on 186 posts reserved for the candidates belonging to backward class category, besides 828 candidates (which include the candidates on 642 posts in open category and the candidates on 186 posts reserved for backward class category) and accordingly, the Government gave instructions to the Director General of*

*Police to send remaining 154 candidates for the training for the post of Police Sub-Inspector who could have been included on both the basis i.e. backward class category and merit and who had already been sent for the said training for the posts actually reserved for backward class category, by excluding 32 candidates. In the Government Letter in this regard, it has also been clearly mentioned that the inclusion of the said candidates shall be subject to the final decision in Special Leave Petition number 28306/2017 filed before the Hon'ble Supreme Court of India, New Delhi.*

*As mentioned hereinabove,  $828 + 154 = 982$  candidates of the Police Sub-Inspector Limited Departmental Examination, year 2016 were sent for training. Thereafter, objection were raised to the aforesaid action and requests had been received by the Government to fill up all these 982 posts as per the merit and also to send all the candidates who have scored 230 and more marks for the training for the post of Police Sub-inspector as the candidate belonging to backward class category who had scored 230 marks, was taking training of the post of Police Sub-Inspector. Moreover, Original Application No. 394/2018 (S.B.Rathod and others) had been filed in this regard, before the Hon'ble Maharashtra Administrative Tribunal, Mumbai. The Director General of Police, after taking into consideration the interim order of the Hon'ble Tribunal passed on the date 04.10.2018, instead of sending 154 candidates belonging to backward class category who had been selected on the posts reserved for backward class category and had completed 9 months' training, for further basic training of the post of Police Sub-Inspector, directed them to resume duty on their original post, in their original Unit. Therefore, the Government, by taking into consideration, the representations received from various Peoples' Representatives, candidates due to the said action and the final order passed on the date 06.11.2018 by the Hon'ble Maharashtra Administrative Tribunal in Original Application No. 394/2018, has taken a decision to send the said 154 candidates belonging to the backward class category for further basic training for the post of Police Sub-Inspector and pursuant to the said decision, the Director General Of Police took action to send these candidates for further training.*

*Thus, in the process of the Police Sub-Inspector Limited Departmental Examination, year 2016, instead of 828 posts mentioned in the original Requisition Letter, 982 candidates have been appointed to the post of Police Sub-Inspector. Thereafter, Government had received the representation from the concerned candidate mentioning therein that the candidate mentioned at Sr.No.1615 belonging to the backward class category from out of these 982 candidates, has scored 230 marks and that despite scoring marks more than him, he has not been appointed to the post of Police Sub-Inspector and that injustice has been caused to him as a result thereof and also from the several Peoples' Representatives. In view thereof, the issue was under consideration of the Government to absorb 636 candidates who have scored 230 and more*

*than 230 marks, besides the candidates mentioned in the Recommendation List of the Maharashtra Public Service Commission in the process of the Police Sub-Inspector Limited Departmental Examination, year 2016 to the posts of Police Sub-Inspector.*

*On this background, the Hon'ble Cabinet, in its Cabinet Meeting dated 20.02.2019, has taken a decision as follows:*

*“Approval be granted to absorb 636 more candidates from the Merit List published by the Maharashtra Public Service Commission, besides the number of posts mentioned in the original Requisition Letter in respect of the Police Sub Inspector Limited Departmental Examination, Year 2016, in phase-wise manner to the posts that would fall vacant from time to time in future in the quota that would be filled up through the Police Sub Inspector Limited Departmental Examination. However, this decision should be brought to the notice of the Maharashtra Administrative Tribunal, Mumbai and thereafter, further steps should be taken”.*

**GOVERNMENT RESOLUTION :-**

*Government approval is hereby granted to absorb 636 candidates, who have scored 230 and more than 230 marks (as per the List in Appendix-A appended herewith) from the Merit List published by the Maharashtra Public Service Commission, besides 828 candidates as per the Original Requisition Letter in respect of the Police Sub-Inspector Limited Departmental Examination, year 2016, on the posts falling vacant from time to time in future, in the quota to be filled up by way of the Police Sub-Inspector Limited Departmental Examination, in phase-wise manner.*

*2. Accordingly, the Director General of Police shall take further necessary steps in this direction. While taking the said steps, precaution should be taken to see that contempt of the order, if any, passed by the Hon'ble Supreme Court of India, New Delhi, Hon'ble Bombay High Court, Mumbai and its Benches at Aurangabad and Nagpur or by the Hon'ble Maharashtra Administrative Tribunal in this matter, is not committed.*

*3. The candidates named in Appendix-A annexed to the Government Resolution, shall fill up the attestation forms in the format prescribed by the Government and shall submit the same directly to the Director General of Police, Maharashtra State, Mumbai, within a period of 30 days.*

*4. ....*

17. The Petitioners have submitted that this Court cannot examine the policy decision of the State that has led to the issuance of the Government Resolution dated 22<sup>nd</sup> April 2019. We are afraid we cannot accept this submission. Firstly, the Tribunal has given reasons for quashing the impugned Government Resolution dated 22<sup>nd</sup> April 2019 and the same is under challenge before us. Secondly, the Supreme Court in various decisions which are referred to hereinafter and more particularly in the decision in the case of ***Gajanan Babulal Bansode (supra)*** wherein this very Government Resolution was under consideration has directed the Tribunal to consider if there are any exceptional circumstances for issuing the impugned Government Resolution. Therefore, even on this count, this Court is duty bound to examine the validity of the impugned Government Resolution based on the directions given by the Supreme Court and on the basis of which the Tribunal has quashed the impugned Government Resolution. Thirdly, whether the impugned Government Resolution passes the constitutional test or not, would certainly be within the scope of this Court in exercise of its powers of judicial review. Therefore, in our view, this Court is certainly within its jurisdiction to examine the basis of issuing the impugned Government Resolution.

18. The Supreme Court in the case of ***Gajanan Babulal Bansode (supra)*** that arose from the order of the Aurangabad Bench of this Court

in Writ Petition No.15045 of 2019 in paragraph 15 observed as under :-

*“15. The impugned G.R. seeks to fill up double the number of vacancies which were notified for the LCDE – 2016 by the Circular dated 27.06.2016. It is well-settled in service jurisprudence that the authority cannot fill up more than the notified number of vacancies advertised, as the recruitment of candidates in excess of the notified vacancies, would be violative of Articles 14 and 16 (1) of the Constitution of India.”*

19. There is no dispute that as per the Government Resolution dated 27<sup>th</sup> June 2016, 828 vacancies were notified out of which 642 were under the “Open Category” and the balance 186 were from “various Reserved Category” for promotion to the post of PSI through LDCE – 2016. The Government Resolution of 22<sup>nd</sup> April 2019 seeks to enhance the said figure by additional 636. The Aurangabad Bench of the Tribunal came to a conclusion that the said Government Resolution of 22<sup>nd</sup> April 2019 does not pass the test of “extra-ordinary situation” for recruitment of posts more than what was notified on 27<sup>th</sup> June 2016. Therefore, we are required to examine the Government Resolution of 22<sup>nd</sup> April 2019 to ascertain where the State was faced with any extra-ordinary situation which compelled it to issue the said Government Resolution for recruitment of additional 636 candidates for promotion to PSI (in excess of what was notified on 27<sup>th</sup> June 2016).

20. The test of “extra-ordinary situation” would have to be assessed on the touch stone of what is stated in the Government Resolution dated 22<sup>nd</sup> April 2019. On a reading of the said Government

Resolution, it is stated that additional recruitment was sought based on the representation received by the Government. In the said representation it was stated that 186 candidates belonging to reserved category could not have been appointed because of the decision of the High Court in case of *Vijay Ghogre (supra)* whereby this Court had struck down the Government Resolution dated 25<sup>th</sup> April 2004 providing for reservation in promotion. Therefore, sending 186 reserved candidates for training amounted to contempt of the Court. Out of these 186 reserved category candidate 32 candidates were such who qualified under the “Open Category” because of their marks and therefore they were to be considered under the “Open Category” which resulted into balance 154 candidates from the reserved category and appointment of these 154 candidates was subject to the Supreme Court decision in the case of Vijay Ghogre in Civil Appeal No.28306 of 2017. Therefore, the State decided that all those candidates who scored 230 marks and above were required to be sent for training. The said Government Resolution further refers to OA No.394 of 2018 filed before the Principal Bench. It further states that 154 reserved category candidates were absorbed by giving appointment letters. Therefore those candidates who scored more than 230 marks and who were not sent would result into injustice as per the various representations received. Therefore the decision was taken to recruit 636 additional candidates

and a resolution to the said effect was passed.

21. In our view, on a perusal of the Government Resolution, it nowhere states the extra-ordinary situation for recruiting additional 636 candidates. What is stated in the said Resolution is narration of various proceedings before the Court and the Tribunal whereby on account of the striking down of Government Resolution permitting reservation in promotion, 154 reserved candidates who were notified in the 2016 advertisement were given appointment letter and same were subject to the Supreme Court decision in the case of *Vijay Ghogre (supra)*. Therefore, as per the representations received, the said recruitment of 154 candidates would be contrary to the decision of the Bombay High Court in the case of *Vijay Ghogre (supra)* and therefore, candidates scoring more than 230 marks should be sent which figure was 636. In our view, other than reference to the various Court proceedings, there is no other statement on what was the extra-ordinary situation which compelled the State Government to recruit more than what was notified in the advertisement dated 27<sup>th</sup> June 2016. The reference to Tribunal and Court proceedings in the Government Resolution cannot in our view be treated as an extra-ordinary situation nor the same was the understanding of the State Government as evident from the said Government Resolution.

22. Therefore in our view, the Tribunal was justified in holding that in the absence of any extra-ordinary situation borne out from the Resolution, any recruitment above the number of vacancies notified/advertised would be bad in law. It is also important to note that the Respondent No.1-State has not challenged the quashing of Government Resolution dated 22<sup>nd</sup> April 2019. Whether an extra-ordinary situation exists for the State Government to recruit additional 636 candidates will have to be answered by the State Government. We are afraid that the State Government has not made any submissions on this count as to what was the extra-ordinary situation which compelled them to issue the Government Resolution of 22<sup>nd</sup> April 2019. If that be so, then the Petitioners cannot contend that there was an extra-ordinary situation for the Government to absorb additional 636 candidates. It is only the State Government that can answer this question and in the absence of any submission on that behalf by the State Government, it would be safe to conclude that there did not exist any extra-ordinary situation to issue such a Government Resolution for recruiting more than what was notified in the 2016 advertisement.

23. The Supreme Court in the case of *Gajanan Babulal Bansode (supra)* in paragraph 15 while dealing with this very issue with regard to LDCE – 2016 has observed that it is well settled in service jurisprudence that the authority cannot fill up more than the notified

number of vacancies advertised, as the recruitment of candidates in excess of the notified vacancies would be violative of Articles 14 and 16(1) of the Constitution of India. We have already observed that we have not been shown any extra-ordinary situation by the State Government which has issued the said Government Resolution and certainly the candidates who want to take the benefit of the said Government Resolution cannot contend that what is stated in the Government Resolution would be extra-ordinary situation. It is the authority that has issued the Government Resolution who has to indicate the existence of an extra-ordinary situation and if the State does not do so then in our view Government Resolution of 22<sup>nd</sup> April 2019 will have to be held to be contrary to paragraph 15 of ***Gajanan Babulal Bansode (supra)***. The impugned Government Resolution is issued by Respondent No.1-State. The said Government Resolution was the subject matter of adjudication before the Tribunal. The Tribunal quashed the Government Resolution on the ground of absence of extra-ordinary/exigencies having been shown. The Respondent No.1-State has accepted this decision of the Tribunal. The sequitur which follows from this acceptance is that in fact no extra-ordinary situation exists to recruit more than what was notified in the advertisement. Today, the Petitioners cannot put words in the mouth of the Respondent No.1-State to make them speak of the existence of extra-ordinary situation when

the State has failed to address this issue. Since the State's mouth is silent it can be inferred that it may have realised its mistake in issuing the impugned Government Resolution and therefore, it did not challenge the order of the Tribunal. Therefore, even on this count, the Petitioners cannot seek revival of the impugned Government Resolution. We may however, observe that the Petitioners were belied by the issuance of the impugned Government Resolution which does not stand legal scrutiny.

24. The Supreme Court in following decisions has consistently reiterated that in service law, there cannot be recruitment of more than the number of posts which is advertised and if more than the number notified is to be recruited, then same would have to be in an exceptional circumstances or in rare circumstances.

- (i) *Rakhi Ray & Ors. Vs. High Court of Delhi & Ors.*<sup>5</sup>,
- (ii) *Arup Das & Ors. Vs. State of Assam & Ors.*<sup>6</sup>
- (iii) *Amlan Jyoti Barooah Vs. State of Assam & Ors.*<sup>7</sup>
- (iv) *Surinder Singh & Ors. Vs. State of Punjab & Anr.*<sup>8</sup>
- (v) *Vivek Kaisth & Anr. Vs. State of HP & Ors.*<sup>9</sup>

25. Certainly in the present case, we do not find any extraordinary circumstances for the State Government to issue 22<sup>nd</sup> April

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5 (2010) 2 SCC 637

6 (2012) 5 SCC 559

7 (2009) 3 SCC 227

8 (1997) 8 SCC 488

9 (2024) 2 SCC 269

2019 Government Resolution for the absorption of 636 candidates. The representations made by various individuals in which it is stated that the recruitment is contrary to the decision of the High Court in the case of *Vijay Ghogre* cannot certainly be treated as an extra-ordinary circumstance. Assuming that the recruitment is contrary to a particular judgment of the High Court, it may result into that decision being wrong but certainly cannot be treated as extra-ordinary situation for recruitment of more than the number notified.

26. We may note the decision of the Madras High Court, where the State had to recruit more than the number of vacancies advertised and the justification for the same was on account of medical emergency and same was upheld by the High Court in case of *Dr. Sagaya Panimalar Vs. State of Tamil Nadu & Ors.*<sup>10</sup> The Madras High Court was posed with a situation, wherein it had to decide whether the circumstances were extra-ordinary circumstances for the State to recruit more than notified vacancies without issuing a fresh notification and without following the due recruitment process. In that case, there was outbreak of dengue fever all over the State of Tamil Nadu and many people started dying due to shortage of doctors to attend in primary health medical center. Judicial note of this situation was taken by National Human Rights Commission and direction was issued by the said

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<sup>10</sup> 2017 SCC Online Mad 24226

Commission to fill up vacancies of doctors. In these circumstances, the Madras High Court held that this would constitute an extra-ordinary situation to deviate from the notification to fill up vacancies for the post of doctors from the waiting list of selected candidates. Since if new notification had to be issued, it would only result into delay and larger purpose of saving individuals life would be defeated. The Court observed that public interest would suffer if the recruitment process had to be done by giving fresh notification and it was in these circumstances, that appointment of selected candidates for waiting list was upheld. In the present case before us, no such extra-ordinary situation has been pointed out which would pass the test of extra-ordinary situation to uphold the Government Resolution of 22<sup>nd</sup> April 2019.

**27.** The recruitment of the Police Sub-Inspector is governed by the Police Sub-Inspector (Recruitment) Rules, 1995. Rule 2(a) defines “Commission” to mean the Maharashtra Public Service Commission. Rule 3 prescribes that Appointment to the post of Sub-Inspector of Police in the Police Force in the State of Maharashtra shall be made either (a) by promotion on the basis of seniority or (b) by selection of persons working in the Police Force on the basis of the result of the limited departmental examination held by the Commission for appointment or (c) by nomination on the basis of the result of a

competitive examination held by the Commission. Rule 4 prescribes that the appointment to the post of Police Sub-Inspector by promotion, selection on the basis of limited departmental examination and nomination shall be made in the ratio of 25:25:50. Rule 5 prescribes that notwithstanding anything contained in these rules, if in the opinion of the Government, the exigencies of service, so require, Government may with prior consultation with the Commission make appointment to the post of Police Sub-Inspector in relaxation of the ratio prescribed for appointment by promotion, selection on the basis of limited departmental examination or nomination.

**28.** In our view, aforesaid Rule 5 would apply to a case where the ratio of 25:25:50 is to be disturbed. In the instant case before us, we are not concerned with the action of the Respondent No.1-State in disturbing this ratio but we are concerned with whether the Respondent State can recruit more than what is advertised by promotion of in-service police constables. In the Government Resolution of 22<sup>nd</sup> April 2019 also, the Respondent-State has not exercised its power under Rule 5. Therefore, one cannot rely upon Rule 5 to justify the action of recruiting 636 candidates under the impugned Government Resolution dated 22<sup>nd</sup> April 2019. Assuming that the Respondent-State has exercised its power under Rule 5 then the said power can be exercised only with prior consultation with the Commission. Although Rule 5

prescribes that the Government “**may**” with prior consultation with the Commission exercise its power under Rule 5, in our view, the said phrase “may” should be construed as “shall.” This is so because Rule 5 has to be read along with Article 320 (3)(a) and (3)(b) of the Constitution of India which provides that the State Public Service Commission shall be consulted on all matters relating to the methods of recruitment to civil services and for civil posts and on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. In this regard, it is relevant to refer to the decision in the case of *Dinkar Anna Patil & Anr. Vs. State of Maharashtra & Ors.*<sup>11</sup> where while interpreting Maharashtra Sales Tax Officers Class I (Recruitment) Rules, 1982 which provided for consultation with Public Service Commission, Supreme Court held that the phrase “may” should be interpreted as “shall” so that requirement of consultation with the Commission is not rendered nugatory.

29. In the instant case, in the Government Resolution dated 22<sup>nd</sup> April 2019, we could not find any reference to the consultation with the Commission nor any document has been shown to us by the parties which will indicate that consultation was made by the Respondent

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<sup>11</sup> (1999) 1 SCC 354

No.1-State with Respondent No.6-Commission. Therefore even on this count, the impugned Government Resolution dated 22<sup>nd</sup> April 2019 inasmuch as it seeks to recruit 636 candidates without consultation with the Commission is bad-in-law.

**30.** Rule 5 further prescribes that the ratio can be disturbed if the “exigencies of service” so require. The phrase “exigencies of service” would mean extra-ordinary situation which arose which compels the Government to disturb the ratio. The word “exigencies” has to be read with “of service.” We have already observed above that there have been no extra-ordinary circumstances which have been shown to us which compelled the Respondent No.1-State to recruit more than what was advertised. Furthermore in our view, the Government Resolution dated 22<sup>nd</sup> April 2019 refers to various representations received from various quarters which led to issuance of the said Government Resolution for recruitment of additional 636 candidates. In our view, such receipt of representations from various quarters would not fall within the expression “exigencies of service” and therefore even on this count, the impugned Government Resolution dated 22<sup>nd</sup> April 2019 is contrary to Rule 5 of the Recruitment Rules.

**31.** The Government Resolution dated 22<sup>nd</sup> April 2019 reproduces the decision taken by the Cabinet in its meeting dated 20<sup>th</sup> February

2019. In the said Cabinet meeting, the decision is taken that approval granted to absorb 636 more candidates, besides the number of posts mentioned in the original requisition letter in respect of LDCE 2016 is to fill up in a phase-wise manner the posts that would fall vacant from time to time in future in the quota that would be filled up in the LDCE. The said decision further states that same should be brought to the notice of the Tribunal and thereafter further steps should be taken. From this Cabinet meeting decision, it appears that the excess candidates are sought to be absorbed to fill up the vacant posts which would arise in future. In our view, this cannot fall within the “extraordinary circumstances” or “exigencies.” Similar issue had come up for consideration before the Supreme Court in case of *Prem Singh and Ors. Vs. HSEB & Ors.*<sup>12</sup> wherein the Supreme Court held that excess recruitment to fill future vacancies was invalid. Similar view is reiterated by the Supreme Court in the case of State of *Bihar & Anr. Vs. Mandan Mohan Singh & Ors.*<sup>13</sup> Therefore, the reason given in the decision of the Cabinet meeting to absorb 636 more candidates besides the original advertised posts is contrary to the Supreme Court’s decision and consequently, the Government Resolution dated 22<sup>nd</sup> April 2019 cannot be sustained since same cannot be done to fill up future vacancies.

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<sup>12</sup> (1996) 4 SCC 319

<sup>13</sup> (1994) Supp 3 SCC 308

**32.** The aforesaid cabinet decision also states that same should be brought to the notice of the Tribunal and thereafter further steps should be taken. In our view, the Cabinet appears to have taken this decision to absorb 636 more candidates subject to the approval of the same by the Tribunal and therefore, they have stated that further steps should be taken after bringing of the notice of the Tribunal the said cabinet decision. In the instant case, the Tribunal has not approved the said decision by quashing the Government Resolution of 22<sup>nd</sup> April 2019 and, therefore, even on this count, the Petitioners cannot seek any relief. The absorption of 636 candidates over and above the number of vacancies advertised would deprive candidates who become eligible for promotion thereafter because if the said additional posts are advertised subsequently then those who become eligible for appointment would not be entitled to apply for the same.

**33.** The advertisement dated 27<sup>th</sup> June 2016 does not state that the number of vacancies notified would change in future as the process of recruitment progresses. Therefore, even on this count the impugned Government Resolution to absorb 636 candidates over and above 828 notified cannot stand legal scrutiny.

**34.** The decisions relied upon by the Petitioners in the compilation of case laws are on general interpretation and are not applicable to the facts of the present case before us and therefore, we

are not dealing with the same.

35. We may observe that in the present decision, we have not expressed any views on the fate of decision of this Court in the case of *Vijay Ghogre (supra)* post *Jarnial Singh's* case but we have analysed the same in Writ Petition No.13227 of 2018.

36. We agree with the submission of Respondent No.1-State that 154 candidates from reserved category and open category are appointed on *the basis of the appointment letter / undertaking* by which they will abide by the outcome of the decision by the Supreme Court in the case of *Vijay Ghogre (supra)*.

37. Looked at from any angle, in our view, the Tribunal in OA No.722 of 2019 and in O.A. No.733 of 2019 was justified in quashing the impugned Government Resolution dated 22<sup>nd</sup> April 2019. Therefore, the present Writ Petitions are required to be dismissed. Ordered accordingly. Rule is discharged. In view of dismissal of the writ petitions, Interim Applications do not survive and are disposed of accordingly.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]

(This Judgment is modified as per speaking order dated 27<sup>th</sup> March 2024. The corrections in the Judgment are shown in italics)