

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10476 OF 2023

Vihar Ashok Bodke ...Petitioner
Versus
Maharashtra Public Service Commission
Thr Its Secretary And Anr ...Respondents

**WITH
WRIT PETITION NO. 10493 OF 2023**

Ashish Kisan Wagh And Anr ...Petitioners
Versus
Municipal Corporation Of Greater
Mumbai ...Respondent

**WITH
INTERIM APPLICATION (ST) NO. 32359 OF 2023
IN
WRIT PETITION NO. 10493 OF 2023**

**WITH
WRIT PETITION NO. 10673 OF 2023**

Vidya Govind Shinde ...Petitioner
Versus
The Maharashtra Public Service
Commission And Anr ...Respondents

**WITH
WRIT PETITION NO. 14739 OF 2023**

Shankar Janardhan Nikalje And Ors ...Petitioners
Versus
The State Of Maharashtra and Ors ...Respondents

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**WITH
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 22635 OF 2023

Jayesh Jaywant Jagtap	...Petitioner
Versus	
State of Maharashtra	...Respondent

**WITH
WRIT PETITION (L) NO. 23092 OF 2023**

Chitrangad Pandurang Kulkarni	...Petitioner
Versus	
Maharashtra Public Service Commission	...Respondents

**WITH
WRIT PETITION (L) NO. 23113 OF 2023**

Shubham Sanjay Godbole	...Petitioner
Versus	
The State of Maharashtra	...Respondent

**WITH
WRIT PETITION (L) NO. 23447 OF 2023**

Akshay Harischandra Gholve	...Petitioner
Versus	
Brihan Mumbai Municipal Corporation	...Respondents

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Mr. Om Lonkar for the Petitioner in WP/10476/2023.
Mr. R.S. Mirpury for the Petitioner in WP/10493/2023.
Mr. Aniesh Jadhav a/w Rushikesh Kekane for the Petitioner in
WP/10673/2023.

Mr. Aditya Shirke for the Petitioner in WPL/22635/2023.

Mr. Shubham Gurav i/b Talekar and Associates for Petitioner in WPL/23022/2023.

Mr. Vaibhav Ugle for Petitioner in WP/14739/2023.

Mr. Atul Damle, Senior Advocate a/w Prasad Avhad with Chetan Nagore for the Petitioner in WPL/23447/2023.

Mr. Narendra Bandiwadekar, Senior Advocate a/w Vinayak Kumbhar, Rajendra Khaire i/b Ashwini Bandiwadekar for the Petitioner in WP/10493/2023 and for the Applicant in IAST/32359/2023.

Mr. Saurabh Utangale for Petitioner in WPL/23092/2023.

Mr. Ashutosh Kumbhkoni, Senior Advocate a/w Mr. Ashutosh Kulkarni, Mr. Siddharth Shitole for Respondent-MPSC in all Writ Petitions.

Mr. A.V. Bukhari, Senior Advocate a/w Mr. B.V. Bukhari, Ms. Fauzia Bukhari, Ms. Sharmeen Bukhari, Mr. Amol Diwate with Rui Hajare for Respondent-MCGM in WP 10476/2023, WP 10493/2023, WP 14739/2023.

Mr. Abhay Patki, Addl. G.P. a/w Himanshu Takke, AGP with Manish Upadhyay, AGP for Respondent/State.

**CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.**

DATE : 24 JANUARY 2024

P.C. :

. In this group of petitions, the Petitioners had applied for the post of Assistant Commissioner, Municipal Corporation Senior Service, Group-A for direct recruitment. Since they have been held to be ineligible in the recruitment process, the Petitioners are before this Court.

2. On 24 June 2021 Maharashtra Public Service Commission ('MPSC' for short) issued an advertisement inviting application to fill up 16 posts. The recruitment process included a screening test by way of written examination and thereafter oral interview. The Petitioners submitted their online applications. Screening test was conducted by way of written examination and out of 2888 candidates 90 cleared the category-wise cut off. Thereafter, the interviews were notified from 28 August 2023 to 30 August 2023. After scrutiny of eligibility, 64 candidates from various categories were found eligible. At that time, the Petitioners approached this Court challenging the decision holding them to be ineligible/disqualified.

3. An interim order came to be passed directing that in the process of interview, the Petitioners can participate, however their results be kept in sealed cover. Provisional final merit list was declared on 8 September 2023. Thereafter, on 11 January 2024, the following order came to be passed.

“ Heard learned counsel for the parties. Reply affidavit in these Petitions is not yet filed by the Respondent-MPSC. Learned Senior Advocate for the Respondent-MPSC submits that reply affidavit will be meaningful if it is filed in individual cases as on the basis of placement in the lists some of the candidates may not fall in the zone of consideration. Learned Counsel submits that the list cannot be prepared because of the ad-interim order passed directing not to open the results which are

kept in sealed cover. Learned Counsel prays that only for the purpose of preparing the list and not to take any further steps for any recommendation, the order be modified.

2. *We find this request to be reasonable. Embargo placed on the Respondent-MPSC not to open the results which are kept in sealed cover stands vacated. MPSC is permitted to open results which are directed to be kept in sealed cover for preparation of the list which shall be shown to the Court on the next date.*

3. *Thereafter, suitable time can be granted to the Respondent-MPSC to file reply affidavit in the individual petitions wherever it is required.*

4. *Stand over to **22 January 2024** under the caption “For Directions”.*

4. Thereafter, MPSC after examining the results, which was kept in sealed cover, prepared a chart and has informed that the Petitioners in these petitions have not secured the qualifying marks to be included in category-wise merit list. Even assuming the Petitioners are held to be eligible/qualified, they do not fall in the category-wise merit list and therefore the question as to whether they are eligible/qualified or otherwise is purely academic.

5. The learned counsel for the Petitioners sought to contend that there could be contingency in future whereby the list could undergo a change. However, that is a possibility and not a certainty. In these circumstances, we do not deem it necessary to keep the petitions pending.

6. Writ Petitions and Interim Application are accordingly disposed of.

7. In case the contingency arises as above, where the Petitioners can be considered on their merit but face the issue of eligibility and qualification, we grant them liberty to approach the Court for agitating grievances. If such petitions are filed, they can be considered on their own merits.

8. Sealed envelopes be returned to the Respondent-Maharashtra Public Service Commission.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)