



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

WRIT PETITION NO.8289 OF 2019

1. Vijay s/o Dinkar Wagh
Age – 45 years, Occ: Service
R/o. Fekri, Tq. Bhusawal, Dist. Jalgaon
2. Dnyandeo s/o Pandharinath Bendale
Age- 45 years, Occ: Service.
R/o Talwel, Tq. Bhusawal, Dist. Jalgaon
3. Bhagwat s/o Ramkrushna Zope
Age-45 years, Occ: Service
R/o Fulgaon. tq. Bhusawal, Dist. Jalgaon ...Petitioners

Versus

1. The State of Maharashtra
Through the Secretary for
Rural Development and Water Conservation
Department, Mantralaya, Mumbai-32
2. The District Collector
Jalgaon
3. The Zilla Parishad Jalgaon
Through its Chief Executive Officer ...Respondents.

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Mr. B. P. Kedar, Advocate for the Petitioners.
Ms. R. P. Gour, AGP for Respondent Nos. 1 & 2.
Mr. Maheshkumar Sonawane, Advocate for Respondent No.3.

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**CORAM : R. G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : OCTOBER 10, 2025
PRONOUNCED ON : NOVEMBER 10, 2025**

JUDGEMENT (Per Abasaheb D. Shinde, J.) :

1. Rule. Rule made returnable forthwith. With the consent of parties

heard finally.

2. By this Writ Petition, under Article 226 of the Constitution of India, the petitioners who are aspirants for being absorbed in the employment of Respondent No.3-Zilla Parishad Jalgaon (“Respondent No.3-Zilla Parishad”) from 10% reservation quota for the Village Panchayat employment are seeking direction that the names of the Petitioners be included in the seniority list of the employees of the Village Panchayat to be appointed in Class-III and Class-IV cadre of Respondent No.3-Zilla Parishad till their appointment in the said cadre of Zilla Parishad as well as to give appointment orders to the Petitioners accordingly.

FACTUAL MATRIX :

3. The Petitioners claim that all the petitioners are working on different posts with their respective Village Panchayats and are eligible for being absorbed in the employment of Respondent No.3-Zilla Parishad from 10% quota to be filled in from the employees of Village Panchayat. The details of Petitioners can be summarized in the tabular form as below :-

	Petitioner No. 1	Petitioner No. 2	Petitioner No. 3
Names	Vijay Dinkar Wagh	Dnyandeos Pandharinath Bendale	Bhagwat Ramkrushna Zope
Holding Post	Clerk	Water Supply Employee	Peon
At Village	Fekri	Talwel	Fulgaon
Date of Birth	01.08.1973	26.04.1973	01.06. 1973
Appointed on	01.06.2003	01.10.1992	25.08.1997
Service Years	16	27	22
Education	SSC	SSC	HSC + Diploma in Construction Supervisor
Eligible for Post	Multi-Purpose Worker (MPW) (Aarogya Sevak) (health worker)	Multi-Purpose Worker (MPW) (Aarogya Sevak) (health worker)	Asst. Junior Engineer
Reserve Category	(SC)	-----	(OBC)
Serial No. in Seniority List dt. 03.11.2018	116	04	45
Seniority as per Caste Category	02	01	01

4. It is case of the Petitioners that as stated above, they are in employment of different Village Panchayats and have completed the service as mentioned in the aforesaid tabular form. It is further case of the Petitioners that Respondent No.1-State issued a circular on 06.04.2005 directing all the concerned Zilla Parishads to reserve 10% quota of Class-III and Class-IV posts to the Village Panchayat employees in Zilla Parishad in direct recruitment process and to make available same to the employees of Village Panchayats who completed 10 years of their services, as per their qualification and by giving age relaxation

up to 45 years. It is further case of the petitioners that even by way of amendment Rule 10-A and 10-B came to be inserted in Maharashtra Zilla Parishad and Panchayat Samitis Amendment Rule, 2005 to that effect.

5. It is further case of the petitioners that after 2015 there was no recruitment in Zilla Parishad for Class -III and Class-IV posts and as against the available vacancies less number of posts were filled up from 10% quota of Village Panchayat employees despite there was a huge backlog and no steps whatsoever have been taken by Respondent No.3-Zilla Parishad till the year 2018. It is also case of the Petitioners that thereafter the State Government allowed Respondent No.3-Zilla Parishad to fill up said 10% quota of employees of Village Panchayat without even waiting for the advertisement and thus Respondent No.3-Zilla Parishad started the recruitment.

6. It is also case of the Petitioners that as mentioned in the above tabular form though the Petitioners were eligible as per their respective seniority list both in general as well as from reserved category, due to an inaction on the part of Respondent No.3-Zilla Parishad, they were not considered for being absorbed in Respondent No.3-Zilla Parishad from the 10% quota, as a result of which the Petitioners have completed 45 years of their age and have been deprived from being

absorbed in Respondent No.3-Zilla Parishad employees for Class-III and class-IV posts and therefore they have approached this Court seeking direction that Respondent No.3-Zilla Parishad be directed to include the names of the Petitioners in seniority list of the employees of Village Panchayat to be appointed on Class-III and Class-IV posts as well as to issue appointment orders accordingly.

7. Respondent No.3-Zilla Parishad has filed an affidavit in reply by admitting the fact that in view of Government Resolution dated 06.04.2005 10% reservation has been provided for the employees of Village Panchayat for being absorbed in Respondent No.3-Zilla Parishad employment. It has also been contended in affidavit in reply that by subsequent notification dated 19.08.2005 beside providing 10% reservation for Village Panchayat employees a condition has been imposed that the said employee should complete 10 years of service for being absorbed in the employment of Respondent No.3-Zilla Parishad and an employee from the said 10% quota who completes 45 years of his age would not be considered for such promotion/absorption. It is further stated in the affidavit in reply that pursuant to the directions issued from the State Government on 13.03.2008, all the Zilla Parishads in the State have been directed to publish a seniority list before publishing an advertisement for filling up the posts from 10%

reservation from the employees of village Panchayat. While directing to prepare the seniority list, the calender year has been directed to be considered as 1st January to 31st December of each year and the seniority list which is published on 1st January would be considered for advertisement published in the same academic year. It is further contended that while the seniority list was being published in January 2018, the name of the petitioners were duly included, however, as per the Government Policy the employee who completes 45 years of age as of 31st December 2018 is held to be disentitled, their names have not been included in the recruitment which was to be made in 2019.

8. It is also contended by Respondent No.3-Zilla Parishad in its affidavit in reply that while the seniority list was prepared on 31.12.2018 most of the employees of Village Panchayats including all the petitioners have completed the age of 45 years. Respondent No.3-Zilla Parishad also relied on the order passed in Writ Petition No.675 of 2019 by which this Court by relying on the statement made by Respondent No.3-Zilla Parishad that process of filling up 10% reservation quota for the academic year 2019 is in process has disposed of the said Writ Petition. It is further contended that since the age limit for being absorbed in 10% reservation quota of Village Panchayat employees is 45 years and the petitioners have completed 45 years of

age they are not entitled for being absorbed from 10% reservation quota.

DEVELOPMENTS OCCURRED DURING THE PENDENCY OF WRIT PETITION :

9. The Writ Petition has been filed by the Petitioners on 01.07.2019. The Writ Petition came up for hearing before this court on 09.09.2019 and this Court passed an interim order by directing the Respondents to consider the case of the Petitioners in the recruitment process, however, shall not issue appointment orders until further orders of this Court. When the Writ Petition further came up before this Court for hearing on 28.09.2021 this Court in order to ensure the compliance of order dated 09.09.2019 posted the Writ Petition for hearing on 30.09.2021 and directed Respondent No.3-Zilla Parishad not to make appointment until further order of this Court in respect of 10% quota reserved for Grampanchayat employees in Respondent No.3-Zilla Parishad employment. Thereafter, when the matter was heard by this Court on 30.09.2021 it was pointed out on behalf of Respondent No.3-Zilla Parishad that, before this Court could passed an interim order on 09.09.2019, the recruitment process was already completed on 07.09.2019 and it is only because of lack of communication the said

fact could not be brought to the notice of this Court. As a result of the said interim order, no appointments could also be made. This Court therefore directed Respondent No.3-Zilla Parishad to give full details in respect of the completion of the said recruitment process. This Court therefore while adjourning the Writ Petition directed Respondent No.3-Zilla Parishad not to make any appointment without obtaining the leave of this Court.

10. It however seems that Respondent No.3-Zilla Parishad on 28.06.2023 issued a communication to the Advocate representing it thereby contending that Respondent No.3-Zilla Parishad is ready to keep three posts from 10% reserved quota vacant subject to outcome of the Writ Petition and requested to allow Respondent No.3 to fill up the remaining posts. Accordingly, taking the said communication on record and after considering the earlier orders passed this Court by an order dated 07.12.2023 directed Respondent No.3-Zilla Parishad to place before it the entire original file pertaining to selection process, leading to issuance of the appointment orders on 07.09.2019 and further directed that three posts which can be occupied by the petitioners, if found eligible, shall be kept vacant from 10% reservation quota to be filled in from the employees of Village Panchayat. Thus by virtue of the said order dated 07.12.2023, three posts have been kept vacant by

Respondent No.3-Zilla Parishad by completing the rest of the recruitment process.

SUBMISSIONS :

11. Beside advancing the oral submissions, the learned Counsel for the Petitioners as well as the learned Counsel for Respondent No.3 have filed on record their written notes of arguments.

12. The learned Counsel for the Petitioners submit that admittedly the Government Circular dated 06.04.2005 holds the field. As per the said circular, 10% reservation has been provided to the employees of Village Panchayats for being absorbed to Class-III and Class-IV posts of the Zilla Parishad. It is further contended by the learned Counsel for the Petitioners that this provision has been made as there was no avenue available for the employees of Village Panchayat for being absorbed in the employment of Zilla Parishad. It is further contented by the learned Counsel for the Petitioners that admittedly the Petitioners were eligible for being absorbed from 10% reservation of employees of Village Panchayat in Class III and Class-IV posts in employment of Respondent No.3-Zilla Parishad. The learned Counsel for the Petitioners further contended that even the names of the Petitioners were also appearing in the seniority list as shown in the tabular form and it is only due to an

inaction on the part of Respondent No.3-Zilla Parishad of not taking steps for absorption of the employees from 10% quota from 2015 till 2018, the Petitioners have crossed the age of 45 years.

13. The learned Counsel for the Petitioners further contends that there is no fault on the part of the Petitioners, that the Respondent No.3-Zilla Parishad has not taken steps to fill up the posts from 10% reservation of employees of Village Panchayat. The learned Counsel for the Petitioners also submits that Respondent No.3-Zilla Parishad has included several other employees from 10% quota though they have crossed 45 years of age and it is only the Petitioners who have been deprived. The learned counsel for the Petitioners has invited attention of this Court to the pleadings in paragraph 9 of the Writ Petition in which the Petitioners have provided 16 names of those age bar candidates who have been included in the seniority list and have been appointed and even the list of those age bar employees has also been annexed with the Writ Petition.

14. The learned Counsel for the petitioners relied on the judgement and order dated 15.07.2015 passed by this Court in the case of ***Bhaskar s/o Ananda Vs. State of Maharashtra and others*** in Writ Petition No.379 of 2015. The judgment and order dated 02.08.2016 passed by this Court in Writ Petition No.5982 of 2014 in the case of ***Ashok s/o Sukha***

Khadse Vs. The State of Maharashtra and Others. So also relied on another judgment of this Court delivered on 23.10.2012 in Writ Petition No.1777 of 2011 in the case of ***Dnyaneshwar s/o Kisan Bari Vs. The State of Maharashtra***, wherein, this Court after considering similar situation has directed Respondent No.3 - Zilla Parishad to absorb the said petitioners by granting relaxation of age from 10% reservation of employees of Village Panchayat. The learned Counsel for the Petitioners therefore submits that by allowing the Writ Petition the Respondent No.3-Zilla Parishad be directed to include the names of the Petitioners in seniority list from 10% reservation of employees of Village Panchayat and to issue appointment orders in favour of the Petitioners.

15. On the other hand, the learned Counsel for Respondent No.3-Zilla Parishad would submit that Respondent No.3-Zilla Parishad is acting as per the Government Circular dated 06.04.2005 which provides for 10% reservation to the employees of Village Panchayat for being absorbed in Respondent No.3-Zilla Parishad only upto the age of 45 years. It is further submitted by learned Counsel for Respondent No.3-Zilla Parishad that before publishing advertisement the seniority list are being published for every year in respect of the employees of Village Panchayat to the extent of 10% quota. As the process of recruitment could not be started after 2015 till 2019 seniority list was

not prepared and by the time the recruitment process could be started in the year 2019, the Petitioners have crossed the age of 45 years and thus the names of the Petitioners could not be included in the seniority list. It is thus contended that the Petitioners are not entitled for being included in the seniority list nor the Petitioners are entitled for absorption in the employees of Respondent No.3-Zilla Parishad.

16. The learned Counsel for Respondent No.3-Zilla Parishad would further submit that as stated above, before this Court could pass an interim order on 09.09.2019, the process of recruitment was already completed on 07.09.2019 and the said fact could not be brought to the notice of this Court. The learned Counsel for Respondent No.3-Zilla Parishad further contended that if the age relaxation is extended to the Petitioners then other employees who are age bar would claim equities and that would frustrate the purpose of the amendment made in the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 and therefore prayed for dismissal of Writ Petition.

17. The learned AGP by inviting our attention to the affidavit in reply filed on behalf of Respondent No.2-Collector, Jalgaon submits that since no recruitment process was initiated in the year 2018 the petitioners could not be considered for absorption. It is further contended that due to pendency of certain proceedings relating to the Maratha Reservation,

the process of absorption of the candidates like the Petitioners could not be undertaken. It is further submitted that it is true that certain candidates who have crossed the age of 45 years have been absorbed. It is further contended that it is only when the process of recruitment commenced in the year 2019 that the seniority list as of 2019 has been exhausted. It is further contended by the learned AGP by relying on the said affidavit in reply filed by Respondent No.2 that there are no posts available so as to accommodate the petitioners. The learned AGP further submits that the fact as regards completion of process before passing of interim order in this Writ Petition could not be communicated due to lack of communication. It is however contended that any order passed by this Court would be followed in letter and spirit.

CONSIDERATION :-

18. From the submissions advanced by the respective Counsels it is an admitted fact that after 2015 Respondent No.3-Zilla Parishad has not taken any steps to fill up the posts from 10% reservation of employees of Village Panchayat though there were several vacancies. Respondent No.2 as well as Respondent No.3 are not able to point out specifically as to why the said steps have not been taken. It is also an admitted fact that the petitioners are eligible, duly qualified and also

their names were appearing in the seniority list both in general as well as from their respective reserved categories. It is only due to inaction on the part of Respondent No.3-Zilla Parishad that after 2015 till 2018 no steps whatsoever were taken for making recruitment from the 10% quota of the employees of Village Panchayat as a result of which the petitioners have crossed the age of 45 years and they have been deprived from being absorbed in the employment of Respondent No.3-Zilla Parishad for no fault on their part.

19. The delay cannot be attributed to the petitioners. The explanation sought to be put forth by Respondent Nos.1 to 3 for delay does not appear to be plausible that too in absence of placing any material on record. Thus in view of the Government Circular dated 06.04.2005 though they were eligible, however, due to crossing the age of 45 years, the petitioners have been deprived from being absorbed in the employment of Respondent No.3. The inaction of Respondent No.3-Zilla Parishad in not filling up the posts from 10% reservation for employees of Village Panchayat is not only against the spirit of Government Circular dated 06.04.2005 but also against the spirit of Rule 10A and 10B of the Maharashtra District Amendment Rules, 2005.

20. It is also pertinent to note that this Court is often required to intervene with regard to the subject matter of the Writ Petition,

whenever the Respondent No.3-Zilla Parishad had shown its inaction in not initiating the recruitment process of absorption of 10% reservation of employees from Village Panchayat. As stated earlier, the delay in initiation of the recruitment cannot be attributed to the petitioners as they were legitimately expecting that Respondent No.3 would commence the process of absorption of the petitioners from 10% reservation of employees of Village Panchayat before they could complete 45 years of age. However, Respondent No.3-Zilla Parishad by not taking timely action for preparing the seniority list for the purpose of absorption of the petitioners from 10% reservation of Village Panchayat employees from 2015 till 2018 have resulted in depriving the petitioners from being included in the seniority list.

21. The Hon'ble Apex Court in the case of ***Union of India and Another Vs. Hemraj Singh Chauhan and Ors.*** Reported in ***2010 4 SCC 290*** while dealing with an aspect of the candidates having become age bar for inaction and delay on the part of the authorities in the case of their promotions has held that delay that deprived the employees of their right to be considered fairly is violative of Articles 14 and 16 of the Constitution of India. No doubt in the said case Hon'ble Apex Court was considering the matter in respect of the promotions, however, the fact remains that the legitimate expectation of the petitioners of being

considered for absorption have been defeated due to the act of Respondent No.3-Zilla Parishad. The relevant paragraphs of the judgment of Hon'ble Apex Court in the case cited (supra) reads thus :-

“36. It is an accepted legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under Article 16 of the Constitution. The guarantee of a fair consideration in matters of promotion under Article 16 virtually flows from guarantee of equality under Article 14 of the Constitution.

37. In Govt. Branch Press v. D.B. Belliappa a three-Judge Bench of this Court in relation to service dispute, may be in a different context, held that the essence of guarantee epitomised under Articles 14 and 16 is "fairness founded on reason" (see SCC p. 486, para 24).

38. It is, therefore, clear that legitimate expectations of the respondents of being considered for promotion have been defeated by the acts of the Government and if not of the Central Government, certainly the unreasonable inaction on the part of the Government of State of Uttar Pradesh stood in the way of the respondents' chances of promotion from being fairly considered when it is due for such consideration and delay has made them ineligible for such consideration. Now the question which is weighing on the conscience of this Court is how to fairly resolve this controversy.”

The Hon'ble Apex Court also observed in paragraph 42 as under :-

“42. Concurring with the aforesaid interpretative exercise, we hold that the statutory duty which is cast on the State Government and the Central Government to undertake the cadre review exercise every five years is ordinarily mandatory subject to exceptions which may be justified in the facts of a given case. Surely lethargy, inaction, an absence of a sense of responsibility cannot fall within the category of just exceptions.”

22. This Court in the case of ***Ganesh Murlidhar Chauhan Vs. State of Maharashtra and Others*** reported in ***2016(5) Mh.L.J. 700***, in almost similar situation after considering the fact that Respondent No.3 has included the names of several candidates despite having crossed 45 years of age as well as have been absorbed whereas the petitioner in

the said petition has been deprived directed Respondent No.3-Zilla Parishad to include the name of the said petitioner at proper place in the seniority list to be meant for absorption of Village Panchayat employees in Zilla Parishad for 10% posts reserved and by further directing to extend the benefit as applicable to the said petitioner.

23. In the present case also the petitioners in paragraph No.9 of the Writ Petition have specifically averred even by placing on record the copy of seniority list and the appointments of the candidates showing that, those candidates are not only included in the seniority list but also issued an appointment orders despite having crossed the age of 45 years. The said contention of the petitioners have gone uncontroverted on behalf of both Respondent No.3 as well as Respondent No.2 in their affidavit in reply meaning thereby, Respondent No.3-Zilla Parishad included the names of similarly placed candidates like that of the petitioners not only in the seniority list but even by giving them an appointment in the employment of Respondent No.3-Zilla Parishad from 10% reservation of employees of Village Panchayat even though they have crossed the age of 45 years.

24. It is also pertinent to note that, one candidate namely, Raman Ahire, who is shown to have been included in the seniority list prepared during the pendency of the Writ Petition and issued an appointment

order, also seems to have crossed the age of 45 years. In short, Respondent No.3-Zilla Parishad has discriminated the petitioners by not giving the benefit of placing them in the seniority list and by not absorbing them in the employment of Respondent No.3-Zilla Parishad merely because of the Petitioners have crossed the age of 45 years. This Act of Respondent No.3-Zilla Parishad is discriminatory and is thus violative of Articles 14 and 16 of the Constitution of India. It thus can be seen that had Respondent No.3 taken timely action of recruitment of various posts including the posts reserved for employees of Village Panchayat, the petitioners would have been included in the seniority list and perhaps would have been absorbed.

25. The contention of the learned Counsel for Respondent No.3-Zilla Parishad that if the age relaxation is extended to the petitioners then the other employees would claim the equities is fallacious since at least the petitioners have promptly and diligently approached this Court for their legitimate claim. Therefore, we are not inclined to accept the said contention.

26. As observed above, since the petitioners are otherwise eligible and in view of assurance given by Respondent No.3-Zilla Parishad of keeping three posts vacant for the petitioners, if they are found eligible shows that the petitioners can certainly be accommodated on those

vacant posts.

27. In the light of observations made hereinabove we pass the following order :-

:: O R D E R ::

(i) Writ Petition is allowed in terms of prayer clause (B), which reads as under :-

“(B) By issuing writ of mandamus or any other appropriate writ the respondents may kindly be directed to include the name of petitioners in seniority list of the employees of village panchayat to be appointed in class-III and class-IV cadre of Zilla Parishad till their appointment in the said cadre of Zilla Parishad and to give appointment orders to the petitioners in class-III cadre of the respondent no.3 forthwith, by giving them age relaxation.”

(ii) Rule is accordingly made absolute. There shall be no order as to costs.

(iii) Writ Petition stands disposed of accordingly.

[ABASAHEB D. SHINDE, J.]

[R. G. AVACHAT, J.]