



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

WRIT PETITION NO. 11268 OF 2024

Raosaheb Pundlikrao Tate And Others

VERSUS

The State Of Maharashtra Through Its Principal Secretary And Others

Mr. A. A. Nimbalkar, Advocate for petitioners

Mr. R. K. Ingole, Advocate for respondent Nos. 2 and 3

Mr. S. D. Ghayal, Addl. GP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 01st October, 2025

PER COURT :-

1. Heard learned Advocate, Mr. Nimbalkar for petitioners, learned Advocate, Mr. Ingole for respondent Nos. 2 and 3 and learned Addl. GP, Mr. Ghayal for respondent-State

2. Petitioner Nos. 1, 3, 5 to 7 (as petitioner Nos. 2 and 4 name was deleted as per the order passed by this Court on 17.01.2025) in the constitutional powers of this Court under Article 226 prayed to quash and set aside order dated 07.03.2024 and 19.08.2024 passed by respondent No. 3 by way of issuing Writ of mandamus however, it is to be noted that by an order dated 07.03.2024, these remaining petitioners were given promotion and the term No. 8 was that they should resume their post

within seven days that has not been obeyed by the petitioners and, therefore, now challenge to the same cannot be entertained. Further, now, the learned Advocate for respondent Nos. 2 and 3 places on record the Government Resolution dated 12.09.2016, which lays down the procedure and order to the different departments of the Government as to what would be the consequence of refusal to accept and non resumption of the duty at the promotional post. The said Government resolution has not been challenged.

3. Now, in respect of prayer 'C' that the respondent No. 2 should offer facility of counseling to the petitioner and to accord them postings through promotion in the same Talukas in which they are currently working is concerned, the learned Advocate for respondent Nos. 2 and 3, upon instructions, makes statement that the respondent No. 2 is considering to include the name of these remaining petitioners in the lists of the eligible candidates for the promotion taking into consideration the eligibility criteria. However, as regards the counseling is concerned, it is stated that it would depend upon the selection after going through the entire procedure. The learned Advocate for the petitioner submits that the counseling was offered to the similarly situated other persons 27 in number and he relies on statement made in Paragraph No. 18 on Page No. 126 in the affidavit of Dr. Savita Sidgonda

Birge, Education Officer (Primary), Zilla Parishad, Nanded wherein it is stated "it is submitted that the counseling procedure done by the present deponent is as per prescribed rules, therefore, it is not correct to say that the present deponent has done favoritism to the other employees."

4. Thus, we take note of the statement made on behalf of respondent Nos. 2 and 3 that the names of petitioner Nos. 1, 3, 5 to 7 would be considered in the list of eligible candidates for the promotion. Respondent No. 2, thereafter, to take up the procedure prescribed as stated in Paragraph No. 18, Page No. 126 of the Affidavit in reply.

5. If any of the petitioners are selected before giving the post name, and if the prescribed rules so permit, the petitioners can be given the option to choose the post prior to it's allotment.

6. With the aforesaid directions the writ petition stands disposed of.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi