

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3693 OF 2025**

Atul Subhash Varpe

....Petitioner

Versus

State of Maharashtra and Ors.

....Respondents

Mr. Sumit S. Kate for the Petitioner.

Mr. P.P. Kakade, Addl. GP a/w. Ms. Pooja Joshi Deshpande, AGP
for Respondent Nos.1 and 2.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.
DATE : 26th MARCH, 2025**

P.C. :-

1. Leave to add the Committee headed by the Additional Chief Secretary, Home Department, constituted under the Government Resolution dated 26th August, 2014, as Respondent No.4. Addition be carried out forthwith.

2. The learned Addl. GP causes an appearance on behalf of the added Respondent.

3. The issue before us is that the Petitioner seeks an appointment as an Assistant Public Prosecutor. He is involved in a litigation with his wife. The Government Resolution dated

26th August, 2014 indicates that those who are involved in a criminal offence, would not be considered for appointment as an Assistant Public Prosecutor. There is no dispute that the Petitioner has mentioned in his application form that there is no criminal case pending against him. The learned Addl. GP submits that since a case under the Protection of Women from Domestic Violence Act, 2005 (the said Act) between the Petitioner and his wife is pending, his case will have to be referred to Respondent No.4, who would submit his impression to the Home Minister and in turn, the file would be presented before the Hon'ble Chief Minister for a final decision.

4. The learned Advocate for the Petitioner relies upon the following judgments to buttress his stand that the pendency of a matter under the said Act would not amount to a criminal proceeding against the Petitioner :

(1) *Kamatchi v/s. Lakshmi Narayanan*¹;

(2) *Nandkishor Pralhad Vyawahare v/s. Mangala w/o. Pratap Bansar*²;

(3) *Nidhi Kaushik v/s. Union of India and Ors.*³;

¹ (2022) 15 SCC 50

² 2018 (3) Mh. L.J. 913

³ 2014 SCC OnLine Del. 3257

(4) *Deepak s/o. Laxmanrao Analdas v/s. The State of Maharashtra and Ors.*⁴;

(5) *Daya w/o Jalendra Khare and Ors. v/s. State of Maharashtra and Anr.*⁵

5. We are informed that presently the proposal of the Petitioner is pending with Respondent No.1.

6. In view of the above, we direct that Respondent No.1 shall transmit the proposal to Respondent No.4 within 10 days from today. The said Committee would take a decision on the said proposal within 15 days and forward the same to the Hon'ble Chief Minister, keeping in view that the portfolio of the Home Ministry is with the Hon'ble Chief Minister. We would appreciate if the Hon'ble Chief Minister takes a decision on the said file within 15 days considering the urgency involved in this matter.

7. We are informed that the MPSC had recommended 530 candidates for the available 530 posts, as per the merit list. Out of the 530 candidates, 500 candidates have been appointed. The

4 Judgment dated 25th October, 2024 in Writ Petition No.10599 of 2024 (Aurangabad Bench)

5 Judgment dated 6th June, 2023 in Criminal Application (APL) No.179 of 2020 (Nagpur Bench)

cases of 30 select list candidates have been referred to the Committee and the Petitioner is one amongst them. As such, there are 30 posts available and 30 select list candidates, who are awaiting the decision of Respondent No.4. If the posts are not kept vacant till the decision of the Hon'ble Chief Minister, the candidates from the wait list will have to be appointed.

8. In view of the said fact situation, we direct that one post, for which the present Petitioner has already been recommended for appointment, shall be kept vacant till the decision of the Hon'ble Chief Minister.

9. In view of the above, **this Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)