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

WRIT PETITION NO. 8674 OF 2025

1. Prashant Ramkrushna Yenge,
Age : 55 years, Occu.: Additional
Executive Engineer, R/o: N – 2,
CIDCO, Tq. & Dist. Aurangabad.

2. Rahul Harishchandra Pawar,
Age : 51 years, Occu.: Additional
Executive Engineer, R/o: Vhatal Post
Balsur, Tq. Umerga, Dist. Dharashiv.

3. Vilas Machindranath Kolekar,
Age : 32 years, Occu.: Junior Engineer,
R/o: Chikalthana, Tq. Kannad,
Dist. Aurangabad.

4. Pradip Balu Gavhande,
Age : 35 years, Occu.: Junior Engineer,
R/o: Bhokardan, Tq. Bhokardan,
Dist. Jalna.

5. Shrikant Balasaheb Gore,
Age : 34 years, Occu.: Assistant Engineer,
R/o: N – 9, Pawan Nagar, HUDCO,
Tq. & Dist. Aurangabad.

6. Abhijitsingh Agamsingh Gaur,
Age : 32 years, Occu.: Assistant Engineer,
R/o: Bhende House Niwara Nagri, Vaijapur
Tq. Vaijapur, Dist. Aurangabad. ...**Petitioners**

Versus

1. MSEB Holding Company Ltd.
Through its Chairman, Hongkong
Bank Building, 3rd and 4th Floor,
M.G. Road, Fort, Mumbai – 400 001.

2. Ministry of Energy,
Through its Principal Secretary Govt.
of Maharashtra, Mantralaya,
Madam Kama Road Mumbai – 400 032.

3. MSEB Holding Company Ltd
Through its Managing Director,
Hongkong Bank Building,
3rd and 4th Floor, M.G. Road, Fort,
Mumbai – 400 001.

4. Maharashtra State Electricity Distribution
Company Ltd. Through its Chairman and
Managing Director, 'PRAKASHGANGA',
C-19, E- Block, Bandra Kurla Complex,
Bandra (E) Mumbai – 40051.

5. Maharashtra State Electricity Distribution
Company Ltd., Through its director (HR)
Human Resources, Plot No. C-19,
Prakashganga 7th floor, Bandra-Kurla
Complex, Bandra(E), Mumbai – 400051. ...**Respondents**

WITH

CIVIL APPLICATION NO. 132 OF 2026
IN WP/8674/2025

Tejas Suresh Shah And Others

VERSUS

Prashant Ramkrushna Yenge And Others

...

AND
WRIT PETITION NO. 8681 OF 2025

1. Vikas Ganpat Jogdand,
Age: 35 years, Occu.: Service at
Assistant Engineer (Dist.)
R/o. Anand Nagar, Ambajogai Road,
Tal. Kaij, Dist.- Beed (MH).

2. Parmeshwar Pralhad Khambaitkar
Age: 42 years, Occu.: Service at
Assistant Engineer (Dist.)
R/o. Near Nath Valley School,
Kanchanwadi, Flat No- 101, Amazon Park,
Chh. Sambhajinagar (MH).

3. Yogesh Sahebrao Sonawane
Age: 38 years, Occu.: Service at
Assistant Engineer (Dist.)
R/o. Rh-4/6, Ashtavinayaknagar,
Near Garware Stadium, MIDC,
Chikalthana, Chh. Sambhajinagar (MH).

4. Mohammed Abdul Hakeem Abdul Karim
Age: 39 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. H. No. 4-11-38,
Maqsod Colony Roshangate,
Chh. Sambhajinagar (MH).

5. Mithun Bhaurao Pawar
Age: 38 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Plot No-100, G.No. 29,
Shiddhivinayak Square, Golwadi,
Near Cidco Stadium, Golwadi,
Chh. Sambhajinagar (MH).

6. Sujit Vasantrao Wangal
Age: 40 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. H.No. 688, Near Balaji Mandir,
Durgawadi, Paithan,
Dist. Chh. Sambhajinagar (MH).

7. Sachin Sahebrao Somwanshi
Age: 40 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. J-304, Udyog Indrakamal,
G.No. 70, Satara, Near Mit College,
Chhatrapati Sambhajinagar (MH).

8. Shital Sharadrao Kathale
Age: 42 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. D-703, Oasis Insignia,
Silk Mill Colony,
Chhatrapati Sambhajinagar (MH).

9. Ravi Rajaram Mirgane
Age: 34 years, Occu.: Service at

Assistant Engineer (Dist.) R/o.
N-2, L-1, 24/15, Ramnagar, Mukundwadi,
Cidco, Chhatrapati Sambhajinagar (MH).

10. Vijay Prabhakar Jadhav
Age: 45 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Puja Apartment, Sangita Colony,
Bhausingpura Road,
Chhatrapati Sambhajinagar (MH).

11. Shaikh Feroj Shaikh Dada
Age: 40 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. At Pisadevi, H. No. 84, Palshi Road,
Near Grampanchayat Office Pisadevi,
Chhatrapati Sambhajinagar (MH).

12. Nilesh Dattatray Pannabhatti
Age: 39 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Flat no. 307, Torana Apartment,
Sainik vihar, Kanchanwadi, Paithan Road,
Chhatrapati Sambhajinagar (MH).

13. Santosh Jagannath Kolhe
Age: 42 years, Occu.: Service
at Assistant Engineer (Dist.) R/o.
Narayani Govindam, Plot No 71, Flat No 1,
Near Janaki Petrol Pump, Garkheda Parisar,
Chhatrapati Sambhajinagar (MH).

14. Anil Tejrao Saiwar
Age: 40 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Alankar Society, Plot No 56,
Behind Nayana Petrol Pump, Garkheda,
Chhatrapati Sambhajinagar (MH).

15. Govind Sahebrao Dusange
Age: 48 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Rx-5/22, New Shri Ganesh
Housing Society, Bajajnagar,
Chhatrapati Sambhajinagar (MH).

16. Sambhaji Maroti Athargan
Age: 38 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Flat No-202, Golden Residency
Near Orange City, Satara Parisar,
Chhatrapati Sambhajinagar (MH).

17. Dipak Uttamrao Sakhale
Age: 36 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Plot No 59, Survey No 166,
Laxmipuram Phase 1, Harsul Pisadevi Road,
Harsul, Chhatrapati Sambhajinagar (MH).

18. Vikrant Rohidas Khade
Age: 42 years, Occu.: Service
at Assistant Engineer (Dist.)
R/o. Duplex no.24, Sadnavan,
Sara-siddhi colony, Beed bypass road,
Chh. Sambhajinagar (MH).

19. Narendrkumar Dhoniram Shinde
Age: 45 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Row House No B-04 1, Rameshwar
Nagar, Honajinagar, Jatwada Road,
Chhatrapati Sambhajinagar (MH).

20. Megha Prashant Chavan
Age: 37 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Flat no. BS03, Ramanand square
apartment, Honaji nagar jatwada road,
Harsul, Chh.sambhajinagar (MH).

21. Ashwini Raosaheb Dake
Age: 36 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Row House no.DA4,
Tirupati Horizon Society,
Nath Vally Road, Kanchanwadi,
Chhatrapati Sambhajinagar (MH).

22. Priya Sudhakar Mhaske
Age: 33 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Row House No-B10, Shri
Krushna Nagari, Devlai, Beed By Pass,
Chhatrapati Sambhajinagar (MH).

23. Anil Govindrao Bansode
Age: 43 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Om Sai Arcade, Flat No-2,
G.No. 93, Plot No-22, Aamdar Road,
Satara Parisar,
Chhatrapati Sambhajinagar (MH).

24. Sandip Ramkisan Pawar
Age: 35 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Gut No 124 Part, Plot No 65,
Aditya Nagar, Khadi Road at Deolai,
Chhatrapati Sambhajinagar (MH).

25. Swapnil Shankar Sonune
Age: 31 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Plot No 29b, Hari Park,
Police Colony, Nashik Road, Padegaon,
Chhatrapati Sambhajinagar (MH).

26. Vishakha Harishchandra Ranaware
Age: 31 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Plot No 29b, Hari Park,
Police Colony, Nashik Road, Padegaon,
Chhatrapati Sambhajinagar (MH).

27. Prajakta Pandurang Barde
Age: 31 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. H.No. 57, Shri Niketan Colony,
Near Abhinay Talkies,
Chhatrapati Sambhajinagar (MH).

28. Ravindra Shridhar Wagh
Age: 36 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. Flat No 602, Jivan Building,
Udyog Indrakamal Apartment,
Beed Bypass Road, Opp. Mit College,
Chhatrapati Sambhajinagar (MH).

29. Shon D. Chawskar
Age: 33 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. At Post- Janori, Tq- Dindori,
Dist.- Nashik (MH).

30. Rameshwar Narayan Bobde
Age: 30 years, Occu.: Service
at Junior Engineer (Dist.)
R/o. At post Wahegaon, Tal Paithan,
Dist. Chh. Sambhajinagar (MH). ...**Petitioners**

Versus

1. The State of Maharashtra
through Principal Secretary,
Industries, Energy and Labour
Department, Mantralaya, Madam
Kama Road, Mumbai – 400 032.

2. The Chairman, MSEB Holding Co. Ltd.
Hongkong Bank Building,
3rd and 4th Floor, M.G. Road, Fort,
Mumbai – 400 001.

3. The Managing Director,
MSEB Holding Co. Ltd.
Hongkong Bank Building,
3rd and 4th Floor, M.G. Road, Fort,
Mumbai – 400 001.

4. The Chairman and Managing Director,
Maharashtra State Electricity Distribution
Company Ltd., G-9, Prakashgad, Fourth
Floor, Bandra (E), Mumbai – 400 051.

5. The Maharashtra State Electricity
Distribution Company Ltd.,
Through its-Chief General Manager,
Hongkong Bank Building, MG Road, Fort, Mumbai
(Head Office at Prakash Gad, Mumbai)

6. Maharashtra State Electricity Distribution,
Company Ltd.,
Through its Human Resources Department,
Estrella Batteries Expansion Building,
Ground Floor, Plot No.1, Dharavi Road,
Matunga, Mumbai-400019. ...**Respondents**

...

AND

WRIT PETITION NO. 8698 OF 2025

1. Vivek Badrinath Jadhav,
Aged: 28 years, Occupation: Jr. Engineer,
Resident at Post Jogeshwari Mulani,
Wadgaon Tq. Paithan,
District Chh. Sambhajinagar.

2. Vishnu Narayan Korde,
Aged: 28 years, Occupation: Jr. Engineer,
Resident at Post Borgaon Taru, Walsa Khalsa
Tq. Bhokardar District Jalna.

3. Sharda Subhash Thorat,
Aged: 32 years, Occupation: Jr. Engineer,
Resident at Post Agarkanadgaon, Tq. Gangapur.
District Chh. Sambhajinagar.

4. Saurabh Rajabhau Sangave,
Aged: 26 years, Occupation: Jr. Engineer,
Resident at post Wadod Bk Tq. Khultabad
District Chharapati Sambhajinagar.

5. Prasad Sudhir Shelke,
Aged: 27 years, Occupation: Jr. Engineer,
Resident at post Pimpli Pl, Tq.Paithan,
Distirict Chatrapati Sambhajinagar

6. Vishal Gorkshnath Hiwarde,
Aged: 29, Occupation: Jr. Engineer,
Resident at Post Plot No. 162 Rajiv Gandhinagar,
N-2 Cidco Near ADCA Cricket Stadium,
District Chatrapati Sambhajinagar.

7. Amol Prakash Suryawanshi
Aged: 31, Occupation: Jr. Engineer,
Resident at post H.No 1/9/452,
Pethe nagar road, Bhimnagar,
Bhavsingpura, District Chh.Sambhajinagar.

8. Yogesh Babanrao Atnure,
Aged: 29, Occupation: Jr. Engineer,
Resident at post Yashwant nagar,
Degloor District Nanded.

9. Ranjeet Pralhad Jarwal,
Aged: 30, Occupation: Jr. Engineer,
Resident at post Sanjarpurwadi, Parsoda
Tq. Vijapur, District Chh. Sambhajinagar.

10. Ajay Manikrao Jadhav
Aged: 30, Occupation: Jr. Engineer,
Resident at post 309B wing subal Srishti,
Nale Colony District Kolhapur.

11. Ravindra Shrikant Mohite,
Aged: 38, Occupation: Jr. Engineer,
Resident at post Plot No.5,6, Yashwant Colony,
A/P Wadanage, Tq:Karveer, Dist Kolapur.

12. Shubham Ravindra Jangle
Aged: 28, Occupation: Jr. Engineer,
Resident of Tulsi Nagar, Wanjola road,
Tq. Bhusawal District Jalgoan.

13. Rahul Dhondiram Patil
Aged: 31, Occupation: Jr. Engineer,
Resident at post Bachani, Tq.-Karveer,
District Kolhapur.

14. Reshmi Rajendra Dudhale
Aged: 30, Occupation: Jr. Engineer,
Resident at post N-2 Cidco, Shriramnagar,
Chhatrapati Sambhaji Nagar

15. Rajkumari Ramchandra Patil
Aged: 31, Occupation: Jr. Engineer,
Resident at post 309, B wing subal Srshti
South Pole, Nale Colony District Kolhapur.

16. Akash Raghunath Shiketod
Aged: 29, Occupation: Jr. Engineer,
Resident at Post Bhakti consyruction
Eknath Nagar, Near Gajanan Maharaj
mandir Shantai Niwas Beed

17. Snehal Janardhan Thorat
Aged: 29, Occupation: Jr. Engineer,
Resident at post N-11, E 42/8 hudco,
Mayurnagar, District Chh. Sambhajinagar

18. Vilas Macchindra Kolekar
Aged: 29, Occupation: Jr. Engineer,
Resident at post 87, Maruti parisar,
Wanjargaon, Tq. Vaijapur,
District Chh. Sambhajinagar.

19. Gajanan Girjaji Kokate
Aged: 29, Occupation: Jr. Engineer,
Resident at post Shiv Chhatrapati Colony,
Near Javahar School, Jintur, District Parbhani.

20. Kureshi Shahnwaj M.sadek
Aged: 29, Occupation: Jr. Engineer,
Resident at Post Ashti, Tq Partur, District Jalna. ...**Petitioners**

Versus

1. The State of Maharashtra
through Principal Secretary,
Energy Department, Mantralaya,
Mumbai – 32.

2. The Chairman, MSEB Holding Co. Ltd.
Hongkong Bank Building,

3rd and 4th Floor, M.G. Road, Fort,
Mumbai – 01.

3. The Chairman and Managing Director,
Maharashtra State Electricity Distribution
Co. Ltd. Prakashganga, Plot No.G-19,
Ananat Kanekar Marg, Bandra (E)
Mumbai – 51.

4. Chief General Manager (HR),
Maharashtra State Electricity Distribution
Co. Ltd., Estrella Batteries Expansion Building,
Ground Floor, Plot No. 1, Dharavi Road,
Matunga, Mumbai – 19. ...**Respondents**

APPEARANCE

FOR PETITIONERS/APPLICANTS :-

- **Mr. V. D. Sapkal,** *Senior Counsel a/w Mr. V. K. Bhosale & Mr. Yash Jadhav i/by Mr. S. R. Sapkal, Advocate for petitioner in WP No. 8674 of 2025*
- **Mr. A. B. Chalak,** *Advocate for petitioners in WP/8681/2025*
- **Mr. A. S. Shejwal,** *Advocate for petitioner in WPs/8698/2025*
- **Mr. A. S. Deshpande,** *Advocate for Applicant/Intervenor*

FOR RESPONDENTS :-

- **Mr. R. N. Dhorde,** *Senior Counsel i/by Mr. A. M. Gaikwad, Advocate for respondent Nos.1 to 3.*
- **Mr. A. S. Shelke,** *Advocate for respondent Nos.4 & 5.*
- **Mr. S. B. Pulkundwar and Mr. P. S. Patil**, *AGPs for respondent-State.*

CORAM : KISHORE C. SANT &
JITENDRA JAIN, JJ.

RESERVED ON : 27th OCTOBER, 2026

PRONOUNCED ON : 28th OCTOBER, 2026

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

1. Rule. Rule made returnable forthwith. By consent of the parties, the petitions are taken up for final hearing at the stage of admission.

2. The issues raised in Writ Petition Nos. 8674 of 2025, 8681 of 2025 and 8698 of 2025 are identical. Therefore, with the consent of the parties, Writ Petition No. 8674 of 2026 is treated as the lead petition.

3. By this petition under Article 226 of the Constitution of India, the petitioners, who are working with respondent Nos. 4 and 5, Maharashtra State Electricity Distribution Company (hereinafter referred to as the "Distribution Company"), seek following reliefs:

> *"B] To quash and set aside the correction slip bearing no. 100 dated 09.04.2025 issued by Maharashtra State Electricity Distribution Company Ltd., by issuing appropriate writ order direction as the case may be.*
>
> *D] To direct the respondent no. 5 to correct the advertisement no. 02/2025 published on dated 27/06/2025 and allow all Junior Engineer, Assistant Engineer and Additional Engineer (Dist.) to participate in selection on the basis of 7 years experience in Distribution, by issuing appropriate writ order direction as the case may be."*

Brief Facts

4. The petitioners are working with the Distribution Company, which is a 100% subsidiary of respondent No. 1 – Holding Company. On 17th May 2012, the Holding Company passed Resolution No. 263 to

bring uniformity in the pre-requisites for the posts in the technical cadre. General Rules were annexed to the said resolution. For direct recruitment to the post of Deputy Executive Engineer in the Distribution Company, Transmission Company and Generation Company, seven years' experience in power distribution, power transmission and power generation, respectively, was prescribed. Similarly, for direct recruitment to the post of Assistant Engineer, three years' experience in power distribution, power transmission or power generation, as the case may be, was prescribed.

5. On 9th April 2025, Correction Slip No. 100 was issued by the Distribution Company, whereby the pre-requisites for direct recruitment to the post of Additional Executive Engineer was revised. Similarly, for the post of Deputy Executive Engineer, the pre-requisites was also revised. Revised pre-requisites are as under:

REVISED PRE-REQUISITES FOR DIRECT RECRUITMENT

Distribution Post

Sr. No.	Name of Post	Qualification	Experience
1.	Additional Executive Engineer (Distribution)	Bachelor's Degree in Electrical Engineering / Technology	07 years post-qualification experience in Power Sector, **including at least 5 years in the area of Power Distribution at the level of Asst. Engineer and above, out of which at least 1 (one) year should be in the position of Dy. Executive Engineer (Dist.)** OR 07 years of post-qualification experience in Power Sector, **out of which at least 2 years in the position of Dy. Executive Engineer (Dist.) in power distribution.**

2.	Deputy Executive Engineer (Distribution)	Bachelor's Degree in Electrical Engineering / Technology	3 year's post-qualification experience in Power Distribution as a Junior Engineer (Dist.) and above, **out of which 1 (one) year should be in the position of Asst. Engineer(Dist.) in power distribution.**

6. The petitioners are aggrieved by the bold portion of the above table.

7. On 27th June 2026, the Distribution Company issued Advertisement No. 02/2025 for direct recruitment to the posts of Additional Executive Engineer (Dist.) and Deputy Executive Engineer (Dist.). The revised experience requirements referred to hereinabove were prescribed for direct recruitment to the aforesaid two posts.

8. It is against the aforesaid backdrop that the petitioners, who are employees of the Distribution Company, have challenged the advertisement dated 27th June 2025, seeking modification thereof insofar as revised experience criteria is concerned.

<u>Submissions of Mr. Sapkal, learned senior counsel for the petitioners :-</u>

9. The learned senior counsel submitted that no approval was obtained from the Holding Company for revising the Rules relating to experience before the date of issuance of the advertisement. He submitted that it was only on 9th September 2025 that the Holding Company passed a resolution approving revised per-requisite requirements for the aforesaid posts. The learned senior counsel,

therefore, submitted that since there was no approval for revising the experience criteria on the date of issuance of the advertisement, the Rules existing prior thereto ought to be considered and not the revised Rules.

10. The learned senior counsel submitted that the Rules cannot be retrospectively ratified by subsequent resolution and, therefore, the advertisement ought to be modified by retaining the requirement of seven years' experience only, which existed prior to the revision of the Rules.

11. The learned senior counsel submitted that the issue is squarely covered by the decision of this Court in Writ Petition No. 12906 of 2023, in the case of ***Amol Govindsing Maher and Others Vs MSEB Holding Company Limited and Others,*** dated 29th February 2024. He relied upon various paragraphs of the said decision in support of his submissions.

12. The learned senior counsel also relied upon the following decisions of the Hon'ble Supreme Court in support of his above submissions:

i. *Ashish Kumar Vs. State of Uttar Pradesh And Others*[1]

ii. *R. Ranjith Singh And Others Vs. State Of Tamil Nadu And Others*[2]

1 (2018) 3 SCC 55
2 (2025) 11 SCC 73

iii. *Malik Mazhar Sultan And Another Vs. U.P. Public Service Commission And Others*[3]

13. The learned senior counsel, therefore, prayed that the petition be allowed in terms of prayer clauses (B) and (D).

Submissions of Mr. Dhorde, learned senior counsel for respondent No. 1 – Holding Company :-

14. The learned senior counsel for respondent No. 1 submitted that the advertisement dated 27th June 2025 is for direct recruitment and is not restricted only to the employees of the Distribution Company. The recruitment is open to all eligible candidates, irrespective of the organisations in which they are working. He submitted that no vested right is created in favour of candidates merely because they wish to apply for the said posts. He further submitted that no preference is given to the employees of the Distribution Company in the process of direct recruitment.

15. The learned senior counsel submitted that, as per the Administrative Circular dated 29th May 2005, the Managing Director of the Distribution Company is empowered to take decisions in all matters except those specifically excluded under the said Circular. According to him, the present issue relating to recruitment does not fall within any of the exceptions.

3 (2006) 9 SCC 507

16. The learned senior counsel submitted that the proposal for revising the pre-requisites for direct recruitment in the Distribution Company was first initiated and forwarded on 24th December 2024. On 10th January 2025, the Distribution Company addressed a letter on the said issue to the Holding Company. The Managing Director of the Holding Company approved the proposed changes on 24th January 2025 and directed that the issue be placed before the Board for consideration.

17. The learned senior counsel also referred to the communication dated 2nd April 2025, addressed by the Holding Company to the Distribution Company, whereby it was communicated that the modifications pertaining to the pre-requisites for direct recruitment had been approved. A copy of the said communication was also addressed to the Managing Director of the Holding Company.

18. Pursuant to above, on 9th September 2025, the Holding Company passed a resolution authorising its subsidiary companies, including the Distribution Company, to modify or revise the pre-requisites and the method of filling up posts from time to time. The said resolution reads as under:

> *"Resolution no. C-1/2025*
> *"RESOLVED THAT considering the variation in the nature of duties for similar posts across the subsidiary Companies, as well as the specific operational requirements of each subsidiary, approval of the Board of Directors of the Company be and is hereby accorded that the subsidiaries shall have*

authority to modify and/or revise, as deemed necessary, the pre-requisites and the method of filling of such posts from time to time, to ensure the operational efficiency and organizational effectiveness.

RESOLVED FURTHER THAT the detailed proposal along with justification regarding modification in pre-requisites, method of filling, shall be submitted by the respective Chairman & Managing Director to MSEBHCL for final approval prior initiation of the recruitment process.

RESOLVED FURTHER THAT the above Resolutions will supersede Resolution No. 239 dated 28/04/2011 and Resolution no. 263 dated 30/04/2012 passed by the Board of MSEBHCL except that the appointment of Directors (which is already provided in the Articles of Association of subsidiary companies) and Executive Directors (Non-Board level) of subsidiary companies shall continue to be made only with the approval of MSEBHCL.

RESOLVED FURTHER THAT the action(s) already undertaken by Directors/officers of the Company prior to passing of this Resolution be and are hereby ratified, confirmed and approved in all respects.

RESOLVED FURTHER THAT the Managing Director in consultation with Director (Finance) of the Company be and is hereby authorised to remove any difficulty(ies) or settle doubt(s) which may arise during the course of implementation of the Resolutions.

RESOLVED FURTHER THAT the Director (Finance) and/or Company Secretary be and is hereby severally authorised to issue a certified copy of the Resolution and forward to subsidiary companies for its implementation."

19. The learned senior counsel submitted that the changes made to the experience criteria for recruitment have been ratified by the Holding Company, as is evident from the aforesaid Board Resolution. He, therefore, submitted that the challenge raised by the petitioners is devoid of merit.

20. The learned senior counsel also placed reliance upon the Maharashtra Electricity Reforms Transformation Scheme, 2005, concerning the erstwhile Maharashtra State Electricity Board. Referring to Clause 6(9) thereof, he submitted that the Distribution Company has the power to frame new regulations.

21. The learned senior counsel further relied upon the following decisions in support of his above submissions:

i. *Maharashtra Public Service Commission Through Its Secretary Vs. Sandeep Shriram Warade And Others*[4]
ii. *Zahoor Ahmad Rather And Others Vs. Sheikh Imtiyaz Ahmad And Others*[5]
iii. *Maharashtra State Mining Corpn. Vs. Sunil S/o Pundikarao Pathak*[6]
iv. *National Institute Of Technology And Another Vs. Pannalal Choudhury And Another*[7]

22. The learned senior counsel for respondent No. 1, therefore, prayed for dismissal of the petitions.

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4 (2019) 6 SCC 362
5 (2019) 2 SCC 404
6 (2006) 5 SCC 96
7 (2015) 11 SCC 669

Rejoinder by Mr. Sapkal, learned senior counsel for the petitioners :-

23. In rejoinder, learned senior counsel for the petitioners, referring to the advertisement, submitted that the qualifications and experience are required to be considered as on the date of issuance of the advertisement, i.e. 27th June 2025. He submitted that, on the said date, there was no resolution approving the revised experience criteria.

24. The learned senior counsel submitted that the reliance placed by the respondents on the communication dated 2nd November 2025 which refers to approval by the competent authority, is misplaced. He submitted that the Managing Director or the Director (Finance) is not the competent authority for approving such modifications.

25. The learned senior counsel further submitted that the online examination was scheduled to be held in August 2025, whereas the resolution approving the revised experience criteria was passed only on 9th September 2025. He submitted that the rules of the game cannot be changed after the game has commenced. He further submitted that ratification can be of an “act/s already done” and not of “Rules” having statutory force.

26. The learned senior counsel, therefore, prayed that the petitions be allowed in terms of prayer clauses (B) and (D).

27. Mr. Deshpande, learned Counsel appearing for the intervener, adopted the submissions made on behalf of the respondents.

The learned Counsel appearing for the other respondents also adopted the submissions advanced by Mr. Dhorde, learned senior counsel for respondent No. 1 – Holding Company.

ANALYSIS AND CONCLUSION :-

28. We have heard learned senior counsel appearing for the petitioners and respondent No. 1, as well as the learned counsel appearing for the other respondents and the intervener. We have also perused the documents referred to by the parties.

29. The issue which arises for our consideration is whether the respondent – Distribution Company is justified in issuing advertisement prescribing experience for the post of Additional Executive Engineer (Dist.) and Deputy Executive Engineer (Dist.) on the basis of the changes made to 2012 Rules which were approved and ratified after the advertisement notice was issued?

30. We are informed by the respondents that more than 4,000 applications have been received pursuant to the aforesaid advertisement and that the examinations are scheduled to be held on 29th October 2026 in the morning and afternoon sessions. The examinations will be conducted online by an external agency. Though more than 4,000 applications have been received, only a handful of candidates have challenged the experience criteria, which forms the subject matter of the

present petition. Therefore, insofar as the other candidates are concerned, they have not raised any grievance regarding the prescribed experience criteria. In our view, the recruitment process cannot be stalled at the behest of a few candidates when thousands of other candidates have not raised any objection to the prescribed experience criteria.

31. At the outset, the advertisement under consideration is issued by the Distribution Company for direct recruitment to the post of Additional Executive Engineer and Deputy Executive Engineer. The said advertisement is not restricted only to the employees of the Distribution Company and is open for all candidates irrespective of whether they are working with the Distribution Company or working with any other organisation. Therefore, in our view, the submission made that vested rights gets accrued in favour of the petitioners who are employees of the Distribution Company on the basis of Rules, 2012, cannot be accepted. No right accrues in favour of any candidate who wishes to apply for the above post under direct recruitment.

32. It is well settled that in case of direct recruitment, the employer is the best person to prescribe the qualification for the post and the Court cannot and should not interfere in such process prescribing the qualification and experience. It is true irrespective of whether the company issuing the advertisement for recruitment belongs to public sector or private sector because in case of a direct recruitment. It is not a

case of internal promotion but recruitment from outside the organisation though the employees too can apply but they would be treated at par with outsiders.

33. The advertisement also provides that departmental candidates, i.e. employees of the Distribution Company possessing a diploma or degree in Engineering, Technology or any other discipline, shall be considered for direct recruitment, provided they appear for the written examination and compete with other candidates. There is no challenge to this requirement. The advertisement also provides other relaxations for the employees of the Distribution Company. In our view, the petitioners cannot pick and choose the conditions of the advertisement and challenge only those which do not suit their requirements.

34. The learned senior counsel for respondent is justified in relying upon paragraph no. 9 of the decision in the case of ***Maharashtra Public Service Commission (supra)*** and paragraph no. 27 in the case of ***Zahoor Ahmad Rather (supra)***, wherein the Hon'ble Supreme Court has observed that the qualification for appointment to the post are best left for the employer to decide according to their requirements and nature of work and the scope of judicial review is miniscule. Relevant paragraph no. 9 of MPSC reads as under :-

> *"9. The essential qualifications for appointment to a post are for the employer to decide. The employer may*

> *prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same."*

35. Now coming to the issue of ratification, the candidates who are applying for the post under a direct recruitment cannot have any say in the internal proceedings of the company issuing advertisement. The candidates cannot make a submission that ratification is not in accordance with law. The candidates have no locus to raise this plea in case of direct recruitment.

36. The qualification which is the subject matter of challenge is specifically provided in the advertisement dated 27th June 2025 itself and not notified afterwards. Therefore, the submission made that rules of came cannot be changed after the the game has started, cannot be

accepted in the facts and circumstances of the present case.

37. The revised criterion for experience was prescribed in the advertisement to attract talented, dynamic and result oriented professionals to join the Distribution Company. There is no malafide or perversity in the company prescribing the revised criterion, on the contrary, it is in the interest of the company to have the best professionals working for them.

38. The basis for revising the experience criterion was initiated on 24.12.2024. This is evident from the office note prepared by the Distribution Company for consideration of its Holding company. The said proposal was forwarded to the Holding company on 10.01.2025. On 02.04.2025, the Director (Finance) of the Holding company approved the modification process proposed by the Distribution Company. The advertisement was issued, thereafter, on 27th June 2025. The resolution of the Holding company was passed on 09.09.2025, in which the proposal for modification of the experience has been approved. The resolution of 09.09.2025 expressly states that the actions undertaken prior to passing of the resolution are hereby ratified, confirmed and approved in all respects. In our view, the actions taken by the Distribution Company from December, 2024 till the date of issuance of the advertisement gets approved and ratified by this resolution.

39. The Administrative Circular dated 29th September 2005 empowers the Managing Director of the Distribution Company to take all decisions in the matter of general management of the Company in consultation with other Directors. There are certain exceptions carved out in the aforesaid Circular, and the present issue does not fall within the said exceptions. The said Circular also provides that the Managing Director shall exercise powers in consultation with other Directors. Resolution No. 263 of 2012, on which heavy reliance is placed by the petitioners, provides that the Managing Director of the Holding Company, in consultation with the Managing Directors of the concerned Companies, may make modifications or changes to the pre-requisites. In our view, the proposal forwarded on 24th December 2024 was made with the concurrence of various Directors and the Managing Director of the Distribution Company. The said proposal was forwarded to the Holding Company, which approved the same by letter dated 2nd April 2025, signed by the Director (Finance) of the Holding Company, a copy of which was also marked to the Managing Director of the Holding Company. In our view, the modification is also in consonance with Resolution No. 263 of 2012. Since the said modification was made prior to the issuance of the advertisement dated 2thh June 2025, we do not find that the petitioners have made out any case for challenging the said modification, which is in accordance with Resolution No. 263 of 2012.

40. We are concerned with direct recruitment and the candidates who are applying under direct recruitment, cannot be heard to submit that the Distribution Company has not taken approval for modifying the experience criterion prior to issuance of the advertisement when in the advertisement itself the revised experience is specifically mentioned.

41. The learned senior counsel for respondent – Holding company is justified in relying upon paragraph no.8 of the decision of the Hon'ble Supreme Court in the case of ***Maharashtra State Mining Corporation (supra)*** and is also justified in relying upon paragraphs no. 29 to 21 of the decision in the case of ***National Institute of Technology (supra)*** wherein the concept of ratification by board resolution has been expressly approved.

42. The issue whether retrospective revision can be made with respect to the Rules by Board Resolution, had come up for consideration before the Hon'ble Supreme Court in the case of ***Goa Shipyard Ltd. V. Babu Thomas[8].*** In the case before the Hon'ble Supreme Court, Goa Shipyard's Officers (Conduct, Discipline and Appeal) Rules, 1999 was amended retrospectively by passing a resolution ratifying the amendment.

43. The Hon'ble Supreme Court in paragraph no. 13 in the case of ***Goa Shipyard Ltd. (supra)*** observed as under :-

8 (2007) 10 SCC 662

"13. From the facts as adumbrated above it clearly emerges that having regard to the Board's resolution dated 18-3-1998, it should be taken that the amendment of the CDA Rules by Circular Resolution No. 13/1995, itself provided that it would take effect from 8-1-1996 (the date on which the same was approved by the majority of Directors). Therefore, Rule 41 of the CDA Rules that the amendment will come into effect from the date stated therein is fully complied with. The question whether the Board of Directors of a company could subsequently ratify an invalid act and validate it retrospectively is no more res integra. The question has been considered by a three-Judge Bench of this Court in Maharashtra State Mining Corpn. v. Sunil [(2006) 5 SCC 96 : 2006 SCC (L&S) 926] . In that case the respondent, an employee of the Corporation was dismissed by the Managing Director preceded by an inquiry. A writ petition was filed challenging the dismissal order on the ground that the Managing Director of the Corporation was incompetent to pass such an order. During the pendency of the writ petition, the Board of Directors of the Corporation passed a resolution ratifying the impugned action of the Managing Director and also empowering him to take decisions in respect of the officers and staff in the grade of pay the maximum of which did not exceed Rs 4700 p.m. The Managing Director who dismissed the employee had earlier the power only in respect of those posts where the maximum pay did not exceed Rs 1800 p.m. The employee at the relevant time was drawing more than Rs 1800 p.m. and, therefore, the Managing Director was incompetent to dismiss the employee. The High Court set aside the order of termination on the ground that the invalid act cannot be subsequently ratified by the Board of Directors. This Court after referring to various earlier decisions set aside the order of the High Court. This Court held as under: (SCC pp. 99-100, paras 7 & 10)

> *"7. The High Court was right when it held that an act by a legally incompetent authority is invalid. But it was entirely wrong in holding that such an invalid act cannot be subsequently 'rectified' by ratification of the competent authority. Ratification by definition means the making valid of an act already done. The principle is derived from the Latin maxim ratihabitio mandato aequiparatur, namely, 'a subsequent ratification of an act is equivalent to a prior authority to perform such act'. Therefore ratification assumes an invalid act which is retrospectively validated.*
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> ***
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> *10. In the present case, the Managing Director's order dismissing the respondent from the service was admittedly ratified by the Board of Directors on 20-2-1991 and the Board of Directors unquestionably had the power to terminate the services of the respondent. On the basis of the authorities noted, it must follow that since the order of the Managing Director had been ratified by the Board of Directors such ratification related back to the date of the order and validated it."*

We, therefore, reject the contention that the order of dismissal passed by CMD is invalid for want of authority."

44. In out view above decision squarely applies to the facts of the case before us.

45. The distinction sought to be made by learned counsel for the petitioner on the decisions relied upon by the respondent, cannot be accepted. The decisions relied upon by the petitioner are not applicable to the facts of the present case, since in those cases, the issue of ratification by the Board of Directors did not arise. The only issue arose was whether the Rules can be amended retrospectively, and whether the advertisement can be contrary to the Rules. The said decisions cannot be made applicable to the present case since in the advertisement, the revised experience was specified and it is a case of direct recruitment. The revised experience has been ratified and the steps for revising the experience criteria were taken much before the issuance of advertisement followed by ratification by resolution passed by the Holding company. Therefore, the cases relied upon by the learned counsel for the petitioner, are distinguishable. It is settled position that ratio of the decision has to be read based on the facts before the Court and not dehors the issue and the facts before the Court.

46. The decision in the case of ***Ashish Kumar (supra)*** relied upon by the petitioner was concerned with the qualification prescribed in

the advertisement as to whether qualification "in psychology subject graduate LT/BT/B.Ed" indicates that whether they were alternate qualifications. The Hon'ble Supreme Court referred to the Rules and observed that possession of LT/BT/B.Ed is not an essential qualification and it is in that context that the Supreme Court observed that advertisement cannot be contrary to the statutory Rules. In the present case, this situation does not arise because the advertisement expressly provides for the revised experience on which there is no debate on its interpretation.

47. The decision in the case ***R. Ranjit Singh (supra)*** relied upon by the petitioner is also not applicable to the facts of the present case since in that case the issue was with regard to fixation of *inter-se* seniority in respect of direct recruitment which included in service candidates also recruited under the direct recruitment quota and interpretation of 1955 Rules. It was in that context that the observation was made by the Hon'ble Supreme Court that rules cannot be changed retrospectively for giving preferential to the in-service candidates who are less meritorious and who have already been granted a concession by permitting them to appear under 20% quota earmarked for them. The promotion was made without amending the Rules. In the instant case before us, this issue does not arise at all, since the facts are quite different than the facts before the Hon'ble Supreme Court.

48. Similarly the decision in ***Malik Mazhar Sultan (supra)*** relied upon by the petitioner also does not apply to the facts of the present case since in that case it was the interpretation of relevant Rule 10 with regard to the requirement of age which was under consideration.

49. In none of the decision relied upon by the petitioner, issue of ratification of revised criteria by the board of directors was under consideration and more particularly when the revised criteria was brought to the notice of the candidates in the advertisement itself and the steps were already initiated prior to the issue of the advertisement and that too with regard to direct recruitment with which we are concerned.

50. The decision relied upon by the petitioner in the case of ***Amol Govindsing Maher and Others (supra)*** of this Court also cannot be made applicable to the facts of the present case. In that case, an advertisement was published inviting applications from candidates for recruitment to 25% of the posts by direct appointment and 75% by promotion, whereas the present case concerns only direct recruitment and does not involve departmental promotions. Since the advertisement in that case also involved promotions, the Co-ordinate Bench held that approval of the changes to the Rules was necessary. In that case the issue of ratification of change in the experience criterion was not before the Co-ordinate bench. In the present case, by virtue of ratification and the

steps taken prior to the issuance of advertisement for change in the experience criterion, we are of the view that the decision in the case of ***Amol Govindsing Maher and Others (supra)*** cannot be made applicable in the changed circumstances of the present case. In that case approval was not taken whereas in the present case approval is taken and the revision has been ratified with regard to all acts prior to the Board Resolution dated 09th September, 2025.

51. It is also important to note that there is no challenge by the petitioner to the resolution of 09th September 2025 whereby the ratification of all the actions taken prior to the resolution has been resolved. In our view, in the alternative, it is important to note that the Resolution dated 9th September 2025 supersedes Resolution No. 239 of 2011 and Resolution No. 263 of 2012. The said supersession, read with the ratification, would mean that Resolution No. 263 of 2012 ceased to exist with effect from 24th December 2024, when the first step was taken towards revising the pre-requisites for direct recruitment.

52. For all the above reasons, all the petitions are dismissed.

53. Rule is discharged. No order as to costs.

54. Pending Applications, if any, also stands disposed of.

(JITENDRA JAIN, J.) **(KISHORE C. SANT, J.)**

JHS/-