



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3213 OF 2026

MAHADEV MADHUKAR JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.V. Dasalkar, Advocate for petitioner

Miss. Neha B. Kamble, AGP for respondent Nos.1 to 3

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 25th MARCH, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Not on board. Taken on board upon mentioning by learned Advocate for petitioner.

2 The petitioner, who is a practicing Advocate, challenges the eligibility criterion prescribed in the advertisement issued by respondent No.4 to the extent that it mandates (i) eight years' experience of practice as an Advocate, and (ii) upper age limit of 38 years for the post of Additional Public Prosecutor (ADPP), Group-A on the ground that it is arbitrary,

unreasonable and violative of Articles 14 and 15 of the Constitution of India. He also seeks directions against respondents for re-fixing the eligibility / experience and age criterion for District Judge by nomination. Consequential prayer has been made against respondent No.4 for acceptance of petitioner's application for the selection to the post of Additional Public Prosecutor (Group-A).

3 Heard learned Advocate Mr. R.V. Dasalkar for petitioner. Learned AGP Miss. Neha B. Kamble waives notice for respondent Nos.1 to 3. No necessity to issue notice to respondent No.4.

4 Learned Advocate for petitioner submits that petitioner got himself enrolled as an Advocate with the Bar Council of Maharashtra and Goa on 17.07.2018. He is practicing in banking and recovery matters and regularly appears before the Debts Recovery Tribunal at Aurangabad. Petitioner had applied for the post of District Judge 2025 Examination (by Nomination 25%) pursuant to the advertisement dated 30.01.2026. The criterion for the said post is, for the Advocate, he should be practicing in the High Court of Bombay or Courts subordinate thereto for not less than seven years on the date of publication of advertisement and the time spent by such Advocate as Public Prosecutor / Government Advocate / Judicial Officer / Law Clerk is also to be included. The age limit for General category is 36

years. The petitioner belongs to General category. As he is satisfying the criterion, his application form has been accepted. Learned Advocate for petitioner submits that post of District Judge is higher post in the Judicial hierarchy and when he is held to be eligible for appearing for the said post, then his application for the post of Additional Public Prosecutor (Group-A) cannot be rejected, as the said post is lower in the Judicial system. The advertisement for the post of Additional Public Prosecutor (Group-A) prescribes the eligibility criterion that the candidate must possess degree in Law, possess experience of working as an Advocate in the High Court or in the Courts subordinate thereto for a period of eight years. Even under Sub Section (7) of Section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023, a person is eligible for appointment as a Public Prosecutor or Additional Public Prosecutor, if he has practiced as an Advocate for not less than seven years. The said provision which has been replaced by corresponding provision under Code of Criminal Procedure also recognized the criterion of seven years' practice. However, the criterion now fixed in the impugned advertisement for the post of Additional Public Prosecutor violates Articles 14 and 15 of the Constitution of India. The prescription of lower upper age limit of 38 years for the post of Additional Public Prosecutor is also ex facie, arbitrary, unreasonable and discriminatory and there is no rational behind such contrary or different provisions.

5 Here, we would like to observe that this Court under the Maharashtra Judicial Services Rules, 2008 has ample powers to fix the criteria regarding the eligibility of candidates, who can apply for the post of District Judge by nomination. We are also guided by the decisions by Hon'ble Supreme Court in respect of same. We are absolutely not in agreement with the submission of learned Advocate for petitioner that the post of Additional Public Prosecutor is lower in rank than that of District Judge. In fact, both of them are independent posts. The only connecting fact is that if a candidate had worked as Public Prosecutor or Government Advocate, then his experience there would be counted for his eligibility. Examination and recruitment for the post of Additional Public Prosecutor is always through respondent No.4 and the criterion and eligibility for different group is different. What has been challenged by present petitioner is the recruitment criterion / eligibility for the post of Additional Public Prosecutor (Group-A), which would be under the Directorate of Public Prosecution (सरकारी अभियोग संचालनालय). Various other parameters have also been laid down apart from the basic mandatory conditions regarding educational qualification and the years of practice. The reservation criterion is also different and in this situation when two posts are different, the recruitment conditions are prescribed under different enactments. In that situation, it cannot be stated that the post of Additional Public Prosecutor is lower in rank. It cannot be

stated that the criterion and eligibility fixed for the post of Additional Public Prosecutor is then violative of Articles 14 and 15 of the Constitution of India. Now, as regards the provisions of Bharatiya Nagarik Suraksha Sanhita and Code of Criminal Procedure then prevailing for the appointment of the post of Additional Public Prosecutor is concerned, it gives the basic requirement taking into consideration the broader nomenclature of the post. However, it has been then divided into groups by the State Government, taking into consideration the need of such persons in different types of Courts. Therefore, fixing the said criterion for a particular group cannot be said to be illegal and beyond the powers of the State Government. We do not find any merit in the present petition, stands **dismissed**.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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