

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.712 OF 2026**

Ajaykumar Ramchandra Thombre

.. Petitioner

..Versus..

The State of Maharashtra and Ors.

.. Respondents

Mr. Laxman Deshmukh (thr. V.C.) a/w Mr. Dhavalsingh Patil i/b
Mr. Ranjeet Patil, counsel for Petitioner.
Ms T.J. Kapre, AGP for Respondent Nos. 1 and 2.

**CORAM : MADHAV J. JAMDAR AND
PRAVIN S. PATIL, JJ.**

DATE : APRIL 16, 2026.

P.C.

1. At the outset, it is noted that this matter was called out in the morning session. None was present on behalf of the respondent No.3. Therefore, the matter is kept in the afternoon session. However, in the afternoon session also, none appeared for respondent No.3. As such, it is clear that respondent No.3 is not interested to contest the present petition.

2. Heard Mr. Laxman Deshmukh, learned counsel for the petitioner, and Ms T.J. Kapre, learned AGP for respondent/State.

3. In the present petition, the challenge is to the interim orders passed by the learned Member, Maharashtra Administrative Tribunal,

Mumbai, in Original Application No. 809 of 2025 dated 23/12/2025 and 02/02/2026, so also the transfer order issued by respondent No.1 during the pendency of the present petition dated 05/02/2026.

4. This Court, by order dated 06/02/2026, elaborately considered the entire grievance raised by the petitioner in detail and, by recording the reasons, granted stay to the transfer order of petitioner dated 05/02/2026 issued by respondent No.1 till 13/03/2026. The said interim order was continued from time to time by this Court and accordingly, the matter is pending on the file of this Court. It would be relevant to reproduce the order dated 06/02/2026, which is not challenged by any of the parties before any other Court and same is operating the field :-

“Mr. Laxman Deshmukh, Learned counsel for the petitioner submits that respondent no.3 who was working as Sub-Divisional Engineer, was initially transferred to the post of Deputy Engineer, Prathan Mantri Gram Sadak Yojana, Sangli. Later, by modifying the transfer order, he was posted as Deputy Executive Engineer, Road Development Department, Sangli. Respondent no.3 challenged that order by filing Original Application No.790 of 2025 before learned Maharashtra Administrative Tribunal, at Bombay. The petitioner was not made a party to that proceedings. It appears that learned Tribunal on 23.12.2025, passed an interim order which reads as under:-

1. Heard Shri Amol Jagtap, learned Advocate for

Applicant. Shri A.J. Chougule, learned Presenting Officer for Respondents.

2. The case of Applicant was heard today against backdrop of 'Affidavit-in-Reply' dated 01.09.2025 filed on behalf of 'Additional Chief Secretary; PWD'

3. The learned PO relied on 'Affidavit-in-Reply' dated 01.09.2025 filed on behalf of 'Additional Chief Secretary; PWD' to emphasize that subsequent transfer of Applicant to vacant post of 'Dy Executive Engineer Road Project Division, Sangli' and extension granted to Shri A.R. Thombre on post of 'Sub Divisional Engineer PMGSY: Sangli' had been effected as per approval of 'Competent Transferring Authority' who is Hon'ble Minister Incharge' of 'PWD'. Hence there was no merit in contention of Applicant to be transferred only to post of 'Sub Divisional Engineer PMGSY: Sangli' as he had already been instead transferred to vacant post of Dy Executive Engineer Road Project Division, Sangli' by 'Order' dated 18.07.2015 of 'PWD'.

4. The case of Applicant is that he had been transferred upon completion of Normal Tenure' of '3 Years' from post of Dy Executive Engineer ZP (B &C); Division Sangli' to post of 'Sub Divisional Engineer PMGSY: Sangli' by 'Order' dated 16.05.2025 of PWD' in place of Shri A.R. Thombre who had also completed Normal Tenure' of '3 Years' on post of 'Sub Divisional Engineer PMGSY: Sangli. Infact initial transfer of Shri A.R. Thombre was proposed to vacant post of 'Dy Executive Engineer ZP (B & C) Sub Division Vita Sangli'. However; after Applicant came to be relieved from post of Dy Executive Engineer ZP (B &C); Division Sangli' he could not immediately join on post of 'Sub Divisional Engineer PMGSY: Sangli' as it continued to remain occupied by Shri A.R. Thombre.

5. The recommendation made by 'CSB' in its meeting held on 08.05.2025 discloses that transfer of Applicant had been proposed post of 'Sub Divisional Engineer PMGSY: Sangli'; while transfer of Shri A.R. Thombre had been proposed to vacant post of Dy Executive Engineer ZP (B & C) Sub Division Vita Sangli'. However; contents of later 'File Notings' of 'PWD' reveal that as Hon'ble Minister in Charge' of 'Rural Development Department' on 04.05.2025 had requested that Shri A.R. Thombre be retained on post of 'Sub Divisional Engineer PMGSY: Sangli' which was just before meeting of 'CSB' held on 08.05.2025. The request of Hon'ble Minister in Charge' of Rural Development Department

however came to be granted belatedly and Shri A.R. Thombre was suddenly retained on post of 'Sub Divisional Engineer PMGSY: Sangli' and Applicant was consequently transferred to vacant post of Dy Executive Engineer Road Project Division, Sangli' upon approval given by 'Hon'ble Minister Incharge' of PWD'. The Hon'ble Minister Incharge' of 'PWD' as 'Competent Transferring Authority' had thus made unilateral changes to earlier recommendation of 'CSB' without recording any 'Specific Reasons' why it was so necessary to retain Shri A.Y. Thombre on post of 'Sub Divisional Engineer PMGSY: Sangli'. Hence there has been contravention of well settled principles laid down by 'Hon'ble Supreme Court of India' in 'Judgment' (2013) 15 SCC 732 (T.S.R. Subramanian and Ors. Vs. Union of India & Ors.).

6. The recommendation made by 'CSB' in its meeting held on 08.05.2025 in respect of Applicant was to transfer him to post of 'Sub Divisional Engineer PMGSY: Sangli' in place of Shri A.R. Thombre who in turn was to be transferred to vacant post of Dy Executive Engineer ZP (B & C) Sub Division Vita Sangli'. Hence due to serious infraction of well settled principles laid down by 'Hon'ble Supreme Court of India' in 'Judgment' (2013) 15 SCC 732 (T.S.R. Subramanian and Ors. Vs. Union of India & Ors.) as observed above the Applicant is now directed to be transferred to post of 'Sub Divisional Engineer PMGSY: Sangli' because no justiciable reason has been recorded to retain Shri A.R. Thombre on post of 'Sub Divisional Engineer PMGSY: Sangli' even after he had completed 'Normal Tenure' of 3 Years and without ascertaining extension could have been granted to him as per stipulated conditions under Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'. 'Section 5(1)' of

7. The 'Additional Chief Secretary PWD' is accordingly directed to issue necessary orders for transfer of Applicant to post of 'Sub Divisional Engineer PMGSY: Sangli' and consequently transfer of Shri A.R. Thombre to vacant post of Dy Executive Engineer Road Project Division, Sangli' within next Four Weeks'.

8. S.O. to 21.01.2026.

2. The order (Supra) caused serious prejudice to the Petitioner, and as such the petitioner was obviously aggrieved by that order.

The Petitioner, not being a party to the said Original Application and had to suffer the interim order which was obtained behind his back. The Petitioner therefore filed Miscellaneous Applications before the learned Tribunal for intervention and for recalling the interim order dated 23.12.2025.

3. Mr. Deshmukh for the Petitioner submits that the Petitioner specifically pointed out to the Ld. Tribunal that he being main stakeholder whose right was being affected in the Original Application, yet was not made party and an interim relief was sought. Learned counsel for the petitioner further submits that the Tribunal, considering the arguments of the petitioner, passed another order dated 14.01.2026 which reads thus:-

1. Heard Shri L.S. Deshmukh in M.A. No.21 of 2026 with M.A. No. 22 of 2026. Shri A.B. Jagtap, learned Advocate for Applicant. Shri A.J. Chougule, learned Presenting Officer for Respondents.

2. Learned Advocate for Applicant in M.A No. 21/2026 and M.A. No. 22/2026 mentions that 'Interim Order' passed on 23.12.2025 has infringed upon his right to present certain relevant facts about claims made by Applicant in O.A. No. 790/2025 and O.A. No. 809/2025 as well as submit reasons for grant of extension to him on post of 'Sub Divisional Engineer PGSY; Sangli' and also prays for recall of 'Interim Order' dated 23.12.2025.

3. as The fact is that Applicant in O.A. No. 790/2025 and O.A. No. 809/2025 had not included Applicant in M.A. No. 21/2026 and M.A. No. 22/2026 'Respondent'. Hence; Applicant in M.A. No. 21/2026 and M.A. No. 22/2026 was not heard before Interim Order' came to be passed on 23.12.2025. Therefore; in Interest of Justice' prayer in M.A.

No. 21/2026 is granted with directions that Applicant in M.A. No. 21/2026 and M.A. No. 22/2026 be added 'Respondent' in O.A. No. 809/2025. as

4. The 'Additional Chief Secretary, PWD' is accordingly informed not to implement Interim Order' passed on 23.12.2025 within stipulated period of Four Weeks'; as it is hereby placed in abeyance for next 'Four Weeks' till submissions of Applicant in M.A. No. 21/2026 and M.A. No. 22/2026 is heard in O.A. No. 809/2025.

5. S. O. to 02.02.2026.

4. On behalf of the petitioner, it is further pointed out that vide the interim order dated 14.01.2026, the earlier order dated 23.12.2025 was directed not to be implemented. Mr. Deshmukh, learned counsel for the petitioner submits that learned Tribunal was convinced that the first interim order was obtained by the Original Applicant/present respondent no.3 by keeping the stakeholder, i.e. the present petitioner in dark and without disclosing certain true facts. That, Learned Tribunal cautiously kept the effect and operation of the interim order dated 23.12.2025 in abeyance. He would further submit that the matter was then posted on 02.02.2026 and on that date, the petitioner submitted his affidavit-in-reply to the main Original Application and requested to continue the interim order dated 14-01-2026. Mr. Deshmukh learned Counsel for the Petitioner was at pains to submit that the Presenting Officer made a verbal statement that the entire transfer proceedings were already completed.

5. Mr.Deshmukh would further submit that on the background of the anomaly created by the various orders passed by the state authorities in attempt to frustrate interim order passed by the

Learned Tribunal, the Petitioner had no other option than to rush before this Court.

6. Mr.Deshmukh submits that during pendency of this petition and before it could come on today's board, the Additional Secretary, Public Works Department, Government of Maharashtra, Mumbai, passed an order dated 05.02.2026, thereby transferring respondent no.3 in the place of the petitioner. He placed on record the transfer order dated 05.02.2026 bearing number as संकीर्ण-२०२५/प्र.क्र.१९/सेवा-२. The same is taken on record and marked as 'X' for the identification.

7. Learned Counsel for the Petitioner submits that the order dated 05-02-2026 issued by the respondent/authorities is apparently to frustrate the petitioner's right as also to come over the order passed by learned Tribunal. He makes a candid statement that he is not yet relieved from his post and the order is passed yesterday only.

8. Considering the nature of prayers and the averments made in this petition, issue notice to the respondents, returnable on 13.03.2026. Ms. Kapre, learned AGP waives notice for respondent nos.1 and 2.

9. The petitioner seeks leave to amend the petition in view of the latest development of passing of the order dated 05.02.2026, passed by the Public Works Department, Government of Maharashtra, Mumbai.

10. The record placed before us prima facie convinces us that the concerned authorities, i.e. Additional Secretary, Public Works Department has turned a Nelson's eye to the interim order dated 14.01.2026 passed by learned Tribunal. The learned Presenting Officer as also the Learned advocate for the Applicant in Original Application, were present in the Tribunal on 14.01.2026 while

the order dated 23.12.2025 was kept in abeyance. Their appearances are recorded by the learned Tribunal in the respective orders. By no stretch of imagination, it could be believed that the Additional Secretary, Public Works Department was not aware of the interim order dated 14.01.2026.

11. Prima facie, the haste shown by the concerned authority issuing the order dated 05.02.2026 while the interim order was in operation since from 14.01.2026 is apparently not only inconsistent with the record, but also creates dark cloud on the acts of the concerned authority in issuance of the impugned transfer orders.

12. Hence, we find that the present is the fit case calling for indulgence of this court.

13. As such, the transfer order No. संकीर्ण-२०२५/प्र.क.११/सेवा-२, dated 05.02.2026 issued by the Additional Secretary, Public Works Department, Government of Maharashtra, is stayed till 13.03.2026.

14. Learned AGP to inform this order to the concerned authorities forthwith.”

5. In the present matter it is admitted fact that as on date, the main application filed by the respondent is pending before the Member, Maharashtra Administrative Tribunal, Mumbai. Therefore, it would be proper, in the background of above said findings recorded by this Court, to remit the matter back to the file of learned Member, Maharashtra Administrative Tribunal, Mumbai, with direction to decide the pending Original Application on its own merits by keeping continue the reasoned

order passed by this Court dated 06/02/2026.

6. Accordingly, we dispose of this petition by directing the Member, Maharashtra Administrative Tribunal, Mumbai, to decide the Original Application No. 809/2025 along with Original Application No. 790/2025 within a period of six months from the date of this order.

7. Both parties are directed to cooperate with the Tribunal to decide the pending Original Applications within time bound period as directed by this Court.

8. It is made clear that the findings recorded by this Court are on the basis of prima-facie perusal of record and therefore, the Tribunal should not be influenced of the said findings and shall decide the Original Applications on their own merits.

With this observations, writ petition stands disposed of.

(PRAVIN S. PATIL, J.)

(MADHAV J. JAMDAR, J.)

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