

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.38 OF 2024

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Jayant Hareshwar Cheulkar

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

...

Mr. Sachindra B. Shetye with Mr. Vaibhav Karnik,
Advocates for the Petitioner

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A.
Chandurkar, Additional Government Pleader and Ms. G. R.
Raghuwanshi, AGP for the Respondent-State

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 7th APRIL 2026

P.C. :

This Public Interest Litigation has been filed by a practicing advocate who is seeking a stricter adherence to the selection procedure under section 24(6) of the Code of Criminal Procedure, 1973 for appointment of District Government Pleader or Prosecutor.

2. The learned counsel for the petitioner states that there is a need for unbiased prosecutor who alone can defend the State's interest. This is also necessary to ensure that the prosecutors do not espouse the cause of the police and ensure that the prosecution is conducted fairly. The learned counsel for the petitioner refers to the decision in "*Union of India v. Sushil Kumar Modi*" (1997) 4 SCC 770 and submits that it is necessary that the prosecutor who is considered as Minister of Justice renders assistance in administration of justice. The petitioner has made the following prayers:-

“a. This Hon’ble Court be pleased to inquire as to how such orders are passed and be pleased to issue appropriate writ, order or direction in the nature of mandamus, may in addition of issuing appropriate directions, procedure and/or guidelines to Respondents in the matter of contractual appointment of Public Prosecutors in the State of Maharashtra be pleased to constitute or appoint a body/person to judicially supervise all such appointments so that the executives cannot exercise unrestrained power for any personal/political advantage in the future.

b. This Hon’ble Court be pleased to issue appropriate writ, order or direction in the nature of mandamus, may direct Respondents to produce all the notings and official documents concerning Appointment Order being DGP 3215/ Pra. Kra. 361/ka. 14 dated 3rd May 2023 and put before this Hon’ble Court as to how and on whose directions such arbitrary appointment of Law Officers in State of Maharashtra by the Respondents done in non-consonance with the rules and procedure set out in the Maharashtra Law Officers (Appointment Conditions of Service and Remuneration) Rules 1984 and other such orders.

c. That Hon’ble Court be pleased to issue appropriate writ, order or direction in the nature of mandamus, declaring order dated 3rd May 2023 and all such appointment orders of Respondents illegal and all appointments made in pursuance to all such orders void ab initio.

d. That this Hon’ble Court be pleased to inquire into all official duties executed and all the orders passed by Santosh Pawar and such other District Government Pleaders/ Prosecutors appointed by Respondents.

e. That this Hon’ble Court be pleased to take necessary action against the Respondents/Officers concerned for traversing beyond their scope for appointment of such officers who are not qualified under the rules and for making such appointments keepings all the procedure prescribed under law at bay and also for encouraging and continuing such arbitrary appointments.

Interim prayers

f. That pending the hearing and final disposal of present petition, this Hon’ble Court be pleased to stay the impugned order and all such orders passed by the Respondents and further stay the implementation, execution and discharge of duties by all district Government Pleaders and Prosecutors so appointed by passing such Orders made, opposed to the appointments under the Maharashtra Law Officers Rules and which made under the arbitrary directions issued by the Respondents.

g. That pending the hearing and final disposal of present petition, this Honourable court be pleased to direct the respondent to appoint expert committee for verification of this subject matter as it is of great importance in dispensation of justice and faith of common person in the judicial system.

h. Ad interim relief/interim relief in terms of prayer (f) and (g) be granted.

i. any other order and further reliefs as this Hon’ble court may deem fit and proper in the interest of justice.

j. for such other and further relieves as this Hon'ble Court may deem fit in the facts and circumstances of the present case."

3. On a glance at the prayers made in this writ petition, we observe that the language and phraseology used by the petitioner are not proper. The petitioner has made Chief Secretary, Law & Judiciary Department, Government of Maharashtra as respondent no.3 but there is no such post in existence. The petitioner has also made the Law Minister, Government of Maharashtra as party respondent who does not seem to be a necessary party in the present proceedings, having regard to the fact that there is no specific allegation made against him.

4. Mr. Sachindra B. Shetye, the learned counsel for the petitioner submits that the appointments of Prosecutors made in the years 1920-1923 were not in consonance with the provisions of the Maharashtra Law Officers (Appointment, Conditions of service and Remuneration) Rules, 1984 (in short, the Appointment Rules) and the Rules for the Conduct of the Legal Affairs of Government, 1984 (in short, the Conduct Rules). According to the learned counsel for the petitioner, the person appointed as In-charge District Government Pleader had crossed the maximum age for such appointment. The learned counsel for the petitioner further submits that the date on which such appointment was made the said person (who is not a party respondent in the present proceedings) was not holding any post so as to designate him to be In-charge Government Pleader.

5. Therefore, the submissions made on behalf of the petitioner to challenge the appointment of District Government Pleader or Prosecutor cannot be accepted. Those appointments were made long back and falls under the exception clause for being appointed as Assistant Government Pleader.

6. On a glance at the order dated 3rd May 2023, it appears that the litigations are pending before the Hon'ble Supreme Court and the High Court of Bombay at Aurangabad Bench. The petitioner has failed to disclose any details of such litigations before different Court. This writ petition may be considered as suppressing material facts from this Court [vide, *S.P.Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by Lrs. & Ors.*] (1994) 1 SCC 1.

7. We do not find any reason to entertain this public interest litigation, which is, accordingly, dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]