

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

WRIT PETITION NO. 86 OF 2026

Kunal Vinayak Jadhav And Anr.

...Petitioners

Versus

The Commissioner, NMC And Ors.

...Respondents

Mr. Shriram Kulkarni a/w Mr. Gaurav Ugale for the Petitioners.
Mr. S.H. Kankal, AGP for the Respondent – State.
Mr. Rohit Sakhadeo for Respondent No.1 – N.M.C.

**CORAM : R. I. CHAGLA AND
ADVAIT M. SETHNA, JJ.**

DATED : 20th APRIL, 2026

PC.:-

1. The Petitioners have approached this Court under Article 226 of the Constitution of India with a prayer to hold and declare that they are eligible and entitled to the promotional post of Junior Engineer (Mechanical) being Diploma holders in Mechanical Engineering and having experience in the field/post of Class – III Technical (Mechanical). They also seek to set aside the criteria of Assistant Junior Engineer (Mechanical) as feeder post in 25% quota for promotion to the post of Junior Engineer (Mechanical) and to direct the Respondent No.1 – Nashik Municipal Corporation to consider replacing the post of Assistant Junior Engineer (Mechanical) to Class – III Technical (Mechanical) from the Mechanical Department with requisite educational qualifications.

2. The Petitioner No.1 was initially appointed on 3 September 2012 on compassionate basis/grounds with the Respondent No.1 – Corporation as a Helper. He then completed his Diploma in Mechanical Engineering. The Petitioner No.2 was similarly conferred compassionate appointment with the Respondent No.1 - Corporation as Filter Operator on 24 June 2021. He also possessed Diploma in Mechanical Engineering, being eligible to be appointed to the higher post.

3. The Petitioner No.1 was promoted to the post of Motor Fitter on 3 November 2021 by the Respondent No.1 – Corporation.

4. Mr. Kulkarni, learned counsel for the Petitioners would contend that the Petitioners are duly qualified to be appointed to the promotional post of Junior Engineer (Mechanical) in terms of the Advertisement dated 29 October 2025 (**Exh. - J to the Petition**).

5. Mr. Kulkarni would submit that the Respondent No.1 – Corporation, on 13 January 2023 had initially moved a proposal to the Principal Secretary, Urban Development Department, State of Maharashtra i.e. Respondent No.2 for approval of the Nashik Municipal Corporation Services (Access to Service and Classification of Service) Rules, 2023 (**“the said Rules”** for short). Such proposal was to grant approval to 25% quota to be filled up by way of promotion for the post of Junior Engineer (Mechanical) subject to having three years experience in the Class – III post of Technical (Mechanical).

6. Mr. Kulkarni would then refer to the Government Resolution dated 6 June 2023 (“**the said GR**” for short) which provided for approval of the said Rules. However, the said GR stipulated a changed criteria for the post of promotion to the Junior Engineer (Mechanical) subject to having 3 years experience in the feeder post of Assistant Junior Engineer (Mechanical) by changing the criteria of promotion from the earlier proposed 3 years experience in the Class-III post of Technical (Mechanical). The Petitioners are aggrieved by such modification in the said Rules carried out at the behest of Respondent No.2-State.

7. Mr. Kulkarni would then contend that by a letter dated 5 January 2024 Petitioner No.1 submitted an application to the Respondent Authorities pointing out the ambiguities in the above Rules to the effect that the feeder post of Assistant Junior Engineer (Mechanical) to be considered for the promotion to Junior Engineer (Mechanical) is not a sanctioned post.

8. Mr. Kulkarni would urge that the Petitioners are duly qualified to the promotional post of Junior Engineer (Mechanical) in terms of the advertisement dated 29 October 2025 published by the Respondent No.1 – Corporation. According to him, the Petitioners should be duly considered to such promotional post of Junior Engineer (Mechanical) by the Respondent No.1 in terms of the proposed amendment to the Rules. This is inasmuch as the Petitioners are duly qualified for promotion to the post of Junior Engineer (Mechanical) having three years experience in the Class-III

technical post, which is a pre-requisite to the promotional post of Junior Engineer (Mechanical).

9. Mr. Kulkarni would accept that the Petitioners have made representations dated 16 November 2025, 17 November 2025 and 19 November 2025 (at **Exh. K – Colly.** to the Petition) to the Respondent Authorities, which have not been decided until date.

10. Mr. Sakhadeo, learned counsel for the Respondent No.1 – Corporation on the other hand, has placed due reliance and invited this Court's attention to the affidavit of Respondent No.1 dated 8 April 2026 filed by Laxmikanth P. Satalkar, Deputy Commissioner (Administration) of the Respondent – Corporation. In this regard, he would first submit that the Respondent – Corporation by its communication dated 28 July 2025 addressed to the Respondent No.2 has resubmitted its proposal for sanction of its staffing pattern (Akruti Bandh 2025). The reply affidavit makes a reference to another communication dated 4 March 2024 addressed by the Corporation to the State. So also reference is made to another communication dated 20 September 2024 submitted by the then Commissioner of the Corporation to the State Government, in relation to modification in the said Recruitment Rules (supra).

11. Mr. Sakhadeo, referring to the reply affidavit has pointed out that by order of this Court dated 27 November 2025 passed in Writ Petition No.16067 of 2025 this Court considering the submissions of the Petitioners'

Advocate has observed that without prejudice to the rights and contentions of the parties both the Petitioners could apply for the post of Junior Engineer (Mechanical) pursuant to the advertisement. If they are eligible they would secure the post. At that stage, there was no stay granted on the said post, as mentioned in the advertisement.

12. Mr. Sakhadeo has referred to judgment of the Supreme Court in *Director of Town Panchayat and Ors. vs. M. Jayabal and Anr. Etc*¹. This is to emphasize that the Supreme Court held that it stands clarified that once the right of an applicant to be considered for appointment on compassionate grounds has been consummated, no further consideration is warranted. Once dependent of a deceased employee is offered employment on compassionate basis, his right stood exercised. Thereafter, no question arises for seeking appointment on a higher post. Otherwise, it would be a case of endless compassion. According to Mr. Sakhadeo, this judgment would squarely apply to the facts and circumstances of the given case.

13. We have duly considered the rival contentions raised before us. We find that it is an accepted position on record that the Petitioners' representations as noted above dated 16 November, 17 November and 19 November 2025 made to the Respondent Authorities are pending and await decision until date.

14. In light of such position, we deem it fit and proper in the peculiar

1 Civil Appeal No. 12640-12643 of 2025 decided on 12 December 2025.

facts and circumstances of the present case, to direct the Respondent No.1 – Corporation to consider such representations (supra) on its own merits and in accordance with law. The Corporation shall duly take into consideration the aforementioned facts which are noted above in the form of the submissions made by the learned counsel for the respective parties before us.

15. Mr. Kulkarni has submitted that there are two similarly situated Applicants who had filed the earlier Civil Writ Petition No.16067 of 2025 seeking for appointment as Junior Engineer, before this Court. According to Mr. Kulkarni, their Applications have been positively considered by the Respondent No.1 – Corporation in as much as they have been appointed to the post of Junior Engineer, by the Respondent No.2 – State.

16. Considering the above, we deem it fit and appropriate to direct the Petitioners to file an additional representation which would also factor in and take into account the aspect of the two similarly situated persons whose appointment for the post of Junior Engineer has been considered by the second Respondent i.e. State Government.

17. In light of the above, the Respondent – Corporation shall decide the earlier three representations (supra) within a time bound manner i.e. no later than within six weeks from the date of uploading of this order. These representations shall be decided on its own merits and in accordance with law. As far as additional representation which would be made by the

Petitioners within a period of two weeks from the date of uploading of this order, the same shall be decided by the Corporation independently and in accordance with law within a period of six weeks from the date of receipt of the said additional representation.

18. As far as the decision on the proposed amendment to the said Rules (supra) is concerned, to include decision on sanctioning of the staffing pattern as well as the change of feeder cadre i.e. Technical Class – III (Mechanical) to the promotional post of Junior Engineer (Mechanical), the same shall also be considered and appropriately decided by the State Government, expeditiously.

19. We make it clear that we have not expressed any opinion on the merits of the Petition. All rights and contentions of the parties are expressly kept open.

20. The Petition stands disposed of in terms of the above. In view of disposal of the Petition, Interim Application(s), if any, does not survive and the same are disposed of.

21. All parties to act upon an authenticated copy of this order.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]