

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16020 OF 2025

Deepak Chhagan Rathod

...Petitioner

Versus

The State Of Maharashtra & Anr.

...Respondents

Ms. Rutika Karale, Mr. Aditya Shinde, Mr. Prashant Mahajan i/b
Vaibhav V. Ugle for the Petitioner.

Mr. Yatin Shashikant Khochare, "B" Panel Counsel for the Respondent.

Mr. Rohit Sakhadeo for Respondent No. 2 (PCMC).

CORAM : R.I. CHAGLA J.
ADVAIT M. SETHNA, J

Reserved on : 20 January 2026

Pronounced on : 29 January 2026

JUDGMENT : (Per R.I. Chagla, J.)

1. By this Writ Petition, the Petitioner is seeking direction to the Respondents to forthwith absorb and appoint the Petitioner for the post of Civil Engineering Assistant on the vacant post, as the Petitioner is at Sr.No.2 of the wait list for the post of Civil Engineering Assistant on such terms as this Court may deem fit and proper.

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2. The Petitioner is having a Bachelor of Arts and Construction Supervisor course completed from the recognized university. The Petitioner had come across one advertisement issued by Respondent No. 2 – The Pimpri Chinchwad Municipal Corporation being Advertisement No. 184 of 2022 on 17th August 2022.

3. The Petitioner had pursuant to the said advertisement applied for the post of Civil Engineering Assistant (“**said post**”) and application had been filled up online on 7th September 2022 with the Respondent No. 2.

4. The Petitioner had submitted the form with Respondent No. 2 for the aforementioned post, and accordingly, received admit card for the said post.

5. The Petitioner had appeared for the examination on 28th May 2023 and secured marks of 157.39856.

6. The Petitioner had applied for the said post under VJ-A category.

7. Thereafter, Respondent No. 2 prepared final list in which the name of the Petitioner was showing in the wait list at Sr.No.2.

8. The candidate who was successful in the said examination had been asked by Respondent No. 2 to join and accordingly, he joined the said post.

9. Thereafter, the candidate who had joined the said post voluntarily resigned due to his own and personal difficulty and accordingly, the said post had become vacant.

10. Respondent No. 2 issued a letter dated 12th June 2024 to various candidates on the wait list for filling up the vacant post. The candidate at Sr.No. 1 of the wait list, i.e. above the Petitioner applied for the said post.

11. Thereafter, the said candidate viz. Anil Shivsingh Jarwal, who had applied for the said post appeared before the office of Respondent No. 2 and made submissions in respect of documentation on 25th July 2024. It was categorically mentioned that there was one criminal proceeding pending against the said Anil Shivsingh Jarwal.

12. The Respondent No. 2 after conducting meetings on 16th December 2024 and 13th January 2025 with Anil Shivsingh Jarwal, who had been selected, disqualified the said Anil Shivsingh Jarwal at a subsequent meeting held on 3rd March 2025. The decision was communicated by the learned Collector to Respondent No. 2 on 4th March 2025.

13. A letter dated 16th March 2025 had been addressed by the said Anil Shivsingh Jarwal to Respondent No. 2 stating that he is not interested in joining Respondent No. 2.

14. The Petitioner accordingly made representation to Respondent No. 2 for absorption in the said post vide letter dated 28th March 2025.

15. The Petitioner received a letter dated 19th August 2025 addressed by Respondent No. 2 informing him about the closure of the process in respect of the said post.

16. The Petitioner being aggrieved by the closure of the process in respect of the said post, though the Petitioner claims to be

entitled to be absorbed in the said post and delay had been at the instance of the Respondents, made representations on 14th August and 20th August 2025.

17. The Respondent No. 1 vide communication issued to Respondent No. 2 dated 4th September 2025 recorded that the said Anil Shivsingh Jarwal has been found ineligible for appointment to the said post.

18. Pursuant to an application under Right to Information, the Petitioner through letter dated 12th September 2025 learnt that the said Anil Shivsingh Jarwal had not accepted the said post. The Petitioner had put up his grievances before the Respondent No. 2 and had followed up the matter, but his representations had not been considered, in view of the Respondent No. 2 having closed the process in respect of the said post.

19. Accordingly, the present Petition has been filed.

20. Ms. Karale, learned Advocate for the Petitioner has submitted that the Petitioner being next on the wait list was eligible

to be absorbed in the said post of Civil Engineering Assistant. This in view of the two candidates above him, who had been selected to the said post, having either not accepted the said post or been disqualified, i.e. in the case of Anil Shivsingh Jarwal against whom a criminal case was pending.

21. Ms. Karale has submitted that the Respondent No. 2 ought to have considered that the delay in filling up the said post after the said Anil Shivsingh Jarwal was disqualified, is at the instance of the Respondents, who could not complete the process within the stipulated period of one year, for which the selection list was in operation.

22. Ms. Karale has submitted that the Petitioner ought not to be made to suffer at the hands of the Respondents, particularly, in view of the Respondents not being diligent in absorbing the Petitioner in the said post.

23. Ms. Karale has referred to the letter dated 4th September 2025 by which Respondent No. 1 had intimated to Respondent No. 2 about the said Anil Shivsingh Jarwal having been held to be

ineligible. She has submitted that the Petitioner's knowledge of this decision is after expiry of the stipulated period for which the selection list was in operation.

24. Ms. Karale has relied upon the GR dated 2nd December 2025, which directs that the selection list shall be in operation for a period of two years or till the new selection list is prepared. She has submitted that the GR has referred to prior Government decision dated 4th May 2022 to that effect. She has submitted that this GR ought to be made applicable to the selection list which is the subject matter of the present Petition, and had been issued on 20th February 2024 for a period of one year.

25. Ms. Karale has also relied upon the letter dated 23rd December 2025 addressed by the Undersecretary, Government of Maharashtra to the Health Service Commissioner, Mumbai extending the selection list for a further period till 16th February 2026, though having expired on 16th November 2025 due to non absorption of the candidates. She has submitted that it has been a consistent stand of the Respondent No. 1 -State that in the event, there is non absorption of the candidate in the said post, the period of the selection list is to

be extended.

26. Ms. Karale has accordingly submitted that the Petitioner ought to be absorbed in the said post by extending the period of the selection list which expired one year from 20th February 2024.

27. Mr. Rohit Sakhadeo, the learned Counsel for the Respondent No. 2-Corporation has placed reliance upon the judgment of the Supreme Court in **Rajasthan Public Service Commission, Ajmer Vs. Yati Jain & Ors.**¹. He has submitted that the Supreme Court has held that even a candidate figuring in the select / merit list has no indefeasible right of appointment. Such candidate can claim only as much as the governing rules relating to recruitment enable or permit, more particularly when the life of a waiting / reserve list is limited. The Supreme Court had considered in that case that the Petitioners did not invoke the writ jurisdiction within the six months' time period during which the reserve list would have been alive and effective. The Writ Petitions had been presented after expiry of such period and accordingly, although the Supreme Court expressed sympathies with the Petitioners, the Supreme Court held

¹ Civil Appeal No. 273 of 2026 with companion matters Jt.dtd.15.01.2026

that the law being what it is, the Petitioners cannot be appointed on any of the posts for which they competed.

28. Mr. Sakhadeo has submitted that in the present case also the Petition has been filed only on 19th November 2025 i.e. after the expiry of the period for which the selection list was alive and effective. The selection list dated 20th February 2024 was alive for a period of one year from 20th February 2024. He has submitted that in view of the aforementioned decision of the Supreme Court, the Petitioner has no indefeasible right of appointment, although figuring in the selection list. He has accordingly, submitted that the Writ Petition lacks merit and ought to be dismissed.

29. Mr. Khochare, the learned Counsel for the Respondent No. 1 has placed reliance upon the order passed by this Court (Nagpur Bench) in **Vishnupant s/o Narayanrao Kashid & ors. Vs. The State of Maharashtra**². He has submitted that in the said decision, it was held that any new law introduced is presumed to be prospective in nature unless expressly stated to be retrospective with date in past from which statute shall apply. It was further held that the GR was

² Writ Petition No. 2465 of 2020 Jt. 1.09.2023

issued on 12th December 2000 and there was no express provision made to make it applicable retrospectively.

30. Mr. Khochare has submitted that the Petitioner in the present case has relied upon GR dated 2nd December 2025, which has expressly made the selection list operational for the two years or till a new list is prepared. The GR operates prospectively as there is no express provision therein to make it applicable retrospectively.

31. Mr. Khochare has submitted that the selection list, which is the subject matter of the present case had expired one year from 20th February 2024 and the Petitioner had applied after expiry of the selection list for absorption in the said post and hence, the application cannot be considered by the Respondents.

32. Having considered the submissions, I find much merit in the submissions of the Respondents. The Supreme Court in **Rajasthan Public Service Commission, Ajmer** (supra) has held in paragraph 108 as under :-

“108. The line of judicial precedents noticed above suggest

that even a candidate figuring in the select / merit list has no indefeasible right of appointment. Viewed from that stand point, we repeat, a candidate figuring in the waiting list cannot claim a better right than those who find place in the select / merit list. He / she, therefore, can claim only as much as the governing rules relating to recruitment enable or permit, more particularly when the life of a waiting / reserve list is limited.”

33. In the present case, the Petitioner was figuring in the waiting list. It has been held by the Supreme Court, that a candidate even figuring in the select / merit list has no indefeasible right of appointment. He can claim only as much as the governing rules relating to recruitment enable or permit, more particularly when the life of a waiting / reserve list is limited. In the present case, the selection list was in operation from 20th February 2024 for a period of one year and expired prior to the decision having been taken by the Respondents to disqualify the said Anil Shivsingh Jarwal, who had been chosen for the said post. The Petitioner's right to claim absorption only arose after disqualification of the said Anil Shivsingh Jarwal, who had been selected upon the successful candidate having voluntarily resigned and the post having become vacant. Prior to

selection, the said Anil Shivsingh Jarwal was placed above the Petitioner in the waiting list. Thus, the case of the Petitioner for absorption in the said post could not have been considered in view of the life of the select list having expired.

34. The GR dated 2nd December 2025, which relies upon the Government decision taken on 4th May 2022, provides that the validity of the selection list shall be two years or till the coming out of a new selection list, applies prospectively. It has been held in **Vishnupant s/o Narayanrao Kashid & ors.** (supra) that any new law introduced is presumed to be prospective in nature unless there is express provision to make it applicable retrospectively. The GR dated 2nd December 2025 relied upon by the Petitioner has no such express provision to make it apply retrospectively.

35. The Petitioner has applied for post with the Nagpur Municipal Corporation. Reliance has been placed upon the pre-condition for appointment to the post and one such pre-condition is that there should be no criminal case(s) registered against the Applicant. The Petitioner has also applied with the Directorate of Medical Education and Research, Mumbai, and the office of Charity

Commissioner, Maharashtra State which have the same pre-condition as the Nagpur Municipal Corporation. He has submitted that the Petitioner has in placing reliance upon the said pre-condition contended that the Respondents could have rejected the said Anil Shivosingh Jarwal at the outset for not meeting the pre-condition for appointment. Although there is merit in this contention, in view of the Respondents having disqualified the said Anil Shivosingh Jarwal after the lapse of the selection list and the Writ Petition having been filed thereafter, the Petitioner cannot seek the mandamus of the nature issued by the Single Judges as held in **Rajasthan Public Service Commission, Ajmer** (supra).

36. Further, the Petitioner having applied to the Nagpur Municipal Corporation and the Directorate of Medical Education and Research, Mumbai, as well as the Office of the Charity Commissioner, Maharashtra State will suffer no prejudice in the dismissal of the present Petition. In any event, the Petitioner can always re-appear for the examination and apply for the post with the Respondent No. 2 – Corporation upon the post becoming available.

37. Accordingly, we find no merit in the present Petition,

which seeks absorption of the Petitioner in the post of Civil Engineering Assistant, considering that the period of the selection / waiting list has lapsed.

38. The Writ Petition is accordingly, dismissed. There shall be no order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA J.]