

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1897 OF 2026

Prashant Vasant Ner.

...Petitioner.

Versus

The State of Maharashtra & Ors.

...Respondents.

Mr. Abhishek Kulkarni a/w. Mr. Sagar Wakale, Advocate for the
Petitioner.

Mr. S.H. Kankal, AGP for Respondent No. 1/State.

Mr. Sandeep Dilip Shinde, Advocate for Respondent Nos. 2 & 3.

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

DATE : 13th February 2026

ORDER :

1. By this Writ Petition, the Petitioner is seeking a direction to the Respondent Authorities to grant promotion to the Petitioner with retrospective effect as a Senior Clerk/Superintendent with all consequential benefits including seniority and Notional Promotion. Further, the Petitioner has sought quashing and setting aside of the decision taken in Minutes of the Meeting of Departmental Promotion

Committee (DPC) dated 18.08.2025 thereby denying the promotion to the Petitioner and applying sealed cover procedure. The reason for denial of promotion to the Petitioner is on the ground that the Petitioner has been facing Departmental Enquiry for a 2010 Criminal Case under the Prevention of Corruption Act which is pending. There is no progress in the trial other than filing of Charge-sheet. The status of the said Departmental Enquiry shows that the conclusion has been enclosed in sealed cover (page 54 Serial No. 2 of the Petition).

2. The learned Counsel for the Petitioner has placed reliance upon a Judgment of this Court(Aurangabad Bench) dated 5th October, 2023 in Writ Petition No. 1672 of 2022 (*Ashok Madhukar Nand v/s. The State of Maharashtra*), wherein this Court in paragraph 22 has noted that the charge-sheet filed in the Criminal Court on 15th June, 2016 together with statement of allegations in the disciplinary action was served upon the Petitioner on 20th November, 2017. This Court has in paragraph 24 referred to the learned Counsel for the Respondent having brought to the attention of this Court to the prohibition of two years for considering the claim of any employee like the Petitioner for promotion whose eligibility is closed in the

sealed cover. Reference has been made to the procedure as contemplated in G.R. dated 15.12.2017. This Court has considered that the Respondents have not placed on record the objective satisfaction for holding the Petitioner ineligible and found that the Petitioner has been illegally deprived of the promotion. Therefore, the Respondents cannot keep the Petitioner waiting for two years. This Court has accordingly held that the reliance placed by the Respondents on Clause 9 of the G.R. dated 15.12.2017 cannot be approved.

3. The present Petition is on similar facts. Reference has also been made to G.R. dated 15.12.2017. The Petitioner has made a representation on 8th December, 2025 (Exh.B to the Petition) which has not been considered by the Respondent Authorities.

4. The learned Counsel appearing for Respondent Nos. 2 and 3 - Kalyan Dombivali Municipal Corporation states on instructions that the representation of the Petitioner dated 08.12.2025 will be considered by the Corporation on the basis of temporary promotion of the Petitioner within a period of 4 weeks from the date of this order. The Corporation will also consider the aforesaid judgment as

well as any other judgment/s which the Petitioner may rely upon and take a decision on the representation in accordance with law within the stipulated period and communicate the decision to the Petitioner within a period of one week thereafter. The statement is accepted.

5. In view of the above statement, the Writ Petition is disposed of. There shall be no order as to costs.

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

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA J.]