

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3272 OF 2026
IN
WRIT PETITION NO. 13450 OF 2025

Shivshankar Ramesh Bhosale & Anr. ...Applicants

IN THE MATTER BETWEEN

Shivshankar Ramesh Bhosale & Anr. ...Petitioners

Versus

Bhiva Harishchandra Sawant & Ors. ...Respondents

Mr Anil Sakhare, Senior Advocate, with Abhijeet Desai, Arjun Pawar, Shrikant Patil & Rohan Bhondave, i/b Arjun Sanjay Pawar, for the Applicant in IA/3272/2026.

Dr Milind Sathe, Advocate General, with NC Walimbe, Addl. GP & SP Kamble, AGP, for the Respondent-State.

Mr Laman S. Deshmukh, for Respondent No. 1.

Ms Leena Patil, for Respondents Nos. 2 and 3.

Mr Ravi Shetty, Senior Advocate, for Respondents Nos. 11 and 15.

Mr Sandeep Dere, with Aarati Patil-Dere, for Respondents Nos. 16 to 21.

Mr Suryankant Lavte, Legal Advisor to DGP

SHEPHALI
SANJAY
MORMARE

Digitally signed
by SHEPHALI
SANJAY
MORMARE
Date: 2026.04.29
17:29:16 +0530

**CORAM: SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.**

**RESERVED ON: 27TH APRIL 2026.
PRONOUNCED ON: 29TH APRIL 2026.**

ORDER: (Per Suman Shyam J.)

1. This Interim Application bearing No. 3272 of 2026 in Civil Writ Petition No. 13450 of 2025 has been instituted by

Applicants, viz., Shailaja Swarupkumar Jankar and Shivshankar Ramesh Bhosale, who are also the Writ Petitioner Nos. 6 and 9, respectively, *inter alia*, assailing the order of promotion to the post of Police Inspector (“PI”) dated 9th April 2026 issued by the Respondent No. 28, i.e., the Director General of Police, State of Maharashtra, by contending that the aforesaid order has been issued in utter violation of the order of *status-quo* dated 13th November 2025 passed by this Court in Writ Petition No. 13450 of 2025. The brief factual background of the case, is that the Applicants/Writ Petitioners herein belong to reserved category. They are presently serving in the Police Department as Assistant Police Inspector (“API”). Their conditions of service is governed by Police Sub-Inspector Recruitment Rules, 1995. The Rules provide for three different modes of filling up vacancies, viz., (a) promotion-based on seniority, (b) LDCE- based on selection and (c) nomination- direct recruitment.

2. The Applicants/Writ Petitioners got promoted to the post of API as reserved category candidate through LDCE. The State of Maharashtra had enacted Maharashtra Public Service (Reservation for Scheduled Caste, Scheduled Tribes, De-Notified Tribes

(Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act 2001 (hereinafter referred to as the Act of 2001). Section of 5 of the Act of 2001 provides for reservation in promotion at all stages. With a view to implement the Act of 2001, Government Resolution (“GR”) dated 25th May 2004 was issued making reservation applicable to promotional posts. The said GR had the effect of superseding the earlier GRs dated 23rd May 1974, 28th January 1975 and 23rd January 1991 thus, specifically providing 33% reservation for the reserved category candidates such as Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes, etc.

3. It appears that the Act of 2001 as well as the GR dated 25th May 2004 were earlier assailed before the Learned Maharashtra Administrative Tribunal, which had passed order dated 28th November, 2014 setting aside the GR & the Act. The decision of the learned MAT was challenged by the State in ***State of Maharashtra, through Chief Secretary, Government of Maharashtra & Anr Vs. Vijay Ghogre & Ors,***¹ before this Court,

¹ Writ Petition No. 2797 of 2015.

wherein, by the Judgment dated 4th August 2017, this High Court had held that the Act of 2001 was valid. However, the GR dated 25th May 2004 was struck down. The State of Maharashtra has challenged the Judgment and Order dated 4th August 2017 by filing SLP (C) No. 28306 of 2017, which is pending disposal before the Hon'ble Supreme Court. However, there is no stay order passed by the Supreme Court in the aforesaid SLP.

4. The Applicants/Petitioners are the beneficiaries of promotion through LDCE made during the period from 2004 to 2014 based on the GR dated 25th May 2004, against reserved quota. Although they were promoted based on LDCE, yet, it is alleged that in view of the GR dated 25th May 2004, the Writ Petitioners/reserved category candidates had stolen a march over the open category meritorious candidates.

5. In view of the decision rendered by this Hon'ble High Court in ***Vijay Ghogre*** (supra), Government Resolution dated 7th May 2021 was issued laying down the guidelines for considering the seniority of the officers providing that, officers/employees who had secured promotion by availing reservation, if appointed on or

before 25th May 2004, shall be considered for further promotion on the basis of their seniority position as on 25th May 2004 and if appointed after 25th May 2004, their eligibility shall be determined on the basis of their original seniority in the cadre of recruitment. The said GR also laid down that, vacant posts in the promotion quota shall be filled on the basis of seniority as per the status available on 25th May 2004. It was further provided that all such promotions would be temporary and subject to the final outcome of SLP (C) No. 28306 of 2017. It was also provided that there would be no reversion/demotion of officers already promoted by following the reservation scheme. In view of the GR dated 7th May 2021, the promotee officers belonging to the reserved category, including the present Writ Petitioners herein , have retained their seniority position in the promotional cadre.

6. On 29th July 2025 the Government issued another GR *inter-alia* clarifying that seniority of employees promoted through LDCE would be maintained in continuation of GR dated 7th May 2021. The operative part of the English translation of GR dated 29th July 2025, reads as follows:-

“The seniority on the senior post of the candidates promoted on senior post through Limited Departmental Examination shall be fixed as following.

A) The employees who joined the government service on 25-5-2004 or earlier through Limited Departmental Examination got promoted on senior post, such employees shall be eligible for next promotion as per seniority of the senior post as on 25-5-2004 and

B) The employees who got promoted on senior post after 25-5-2004 through Limited Departmental Examination, such employees shall be eligible for next promotion as per seniority from the date of their appointment on senior post.

2. Above promotions shall be only of temporary form subject to the final judgment of Hon. Supreme Court in the matter of Special Leave Petition no. 28306/2017. While taking such action, any backward class officer/employee on the present senior post of seniority list by taking benefit of reservation of promotion shall not be demoted.

3. The said Government Resolution is available on website www.maharashtralgov.in of Government and its computer code no. is 202007291756357007. This Government Resolution is issued with digital signature.

By the order and in the name of Governor of Maharashtra.”

7. Thereafter, the respondent No. 28 had issued order dated 21st August 2025 granting promotion to several candidates to the post of Police Inspector. However, in the meantime, the few open category candidates had approached the learned MAT by filing Original Application No.834 of 2025 (24 candidates in total) by *inter alia* contending that after the quashing of the GR dated 25th May 2004, the promotion granted to the Reserved Category Candidates were liable to be declared as illegal. Therefore, their

seniority should be counted ahead of such Reserved Category Candidates, who had been granted benefits of reservation in the LDCE process.

8. The aforesaid Original Application No. 834 of 2025 was analogously heard along with Original Application No. 843 of 2025 and Original Application No. 885 of 2025, instituted by similarly situated candidates serving in the Mantralaya, who were aspiring of being promoted from the post of Assistant Section Officer to the post of Section Officer. By the common Judgment dated 25th September 2025 passed by the learned MAT, all the three Original Applications were allowed by setting aside the GR dated 29th July 2025. Consequently, a direction was issued to process the promotion of the selected candidates from the select list. The operative part of the Judgment and Order dated 25th September 2025 is reproduced hereinbelow:-

“37. The Government Resolution dated 29.07.2025 is quashed and set aside.

38. The respondent-General Administration Department shall conclude the process for granting promotions to the post of Section Office to the selected candidates from the select list of the year 2024-25, as expeditiously as possible and in any case within four weeks, by issuing the appointment orders to the selected candidates.

39. Respondent nos. 1 to 5 from O.A. Nos. 834 & 843 of 2025 shall desist from taking any steps contrary to the decision in the matter of **Vijay Ghogare** till challenge to it is pending before the Supreme Court.”

9. Being aggrieved by the Judgment and Order dated 25th September 2025 the present Petitioners/Applicants, i.e., the Respondents in Original Application No. 834 of 2025 have instituted Writ Petition No. 13450 of 2025 wherein this Court had passed an ad-interim order directing maintenance of *status-quo*. Notwithstanding the same, the respondent No. 28 has issued the order dated 9th April 2026 granting promotion to several officers in the post of ‘Police Inspector’.

10. The stand taken in the reply filed by the respondent No. 28 has been summarized in paragraph 25, which is reproduced herein below:-

“25. It is most humbly submitted that the Petitioners in the present petition are from reserved category candidates in which the status quo order is passed by this Hon'ble High Court on 13/11/2025 and the issue involved in the petition is regarding reservation in promotion which will not affect any open category candidates if they are promoted as per their original seniority. Moreover, as described hereinabove, the Ld. MAT has also expressed its view in that regard during the hearing of OAs mentioned above. Therefore, vide the order dated 09/04/2026, the promotions are issued to only open category candidates, who have not taken benefit of reservation ever at any stage. Further, the said promotion order does not affect the Petitioners adversely as the Petitioners have already been promoted to the post of PI vide order dated 21/08/2025.

On this bona fide belief, the order of promotion dated 09/04/2026 was issued by the office DGP”

11. In support of the statement made in the Reply, Dr. Milind Sathe, learned Advocate General of the State of Maharashtra has submitted that the order dated 9th April 2026 would not affect the litigating parties inasmuch as only the open category candidates have been promoted thus, leaving as many as 66 posts vacant to be filled up based on the outcome of the SLP filed in case of **Vijay Ghogre** (Supra) as well as the present proceeding. According to Dr. Sathe, the Department is running short of manpower. Therefore, the order dated 9th April 2026 has been issued in public interest so as to fill up the large number of vacant posts of Police Inspectors.

12. In his usual fairness, Dr Milind Sathe, learned Advocate General has further submitted that until a final decision is taken in the case of **Vijay Ghogre** (Supra) by the Hon’ble Supreme Court of India, the rights and contentions of the parties engaged in these proceeding, would not be settled. Therefore, if liberty is granted by this Court, the State would issue temporary promotion order to the Writ Petitioners as well as the Respondents in accordance with the provisions of Rules, subject to their fulfilling the eligibility

criteria, by making the same dependent on the outcome of the SLP pending before the Supreme Court. It is also the submission of the learned Advocate General that the Respondent No. 28 would also be ready and willing to implement the order dated 21st August 2025 granting promotions to the post of Police Inspector, if permitted by this Court.

13. Mr. AY Sakhare, learned Senior Counsel along with Mr. Desai, learned counsel for the Writ Petitioners/Applicants as well as Mr Shetty, learned Senior Counsel along with Mr Dere, appearing for the Original Applicants/Respondents have submitted that they would not have any objection, if liberty is granted to the State to temporarily promote the candidates belonging to both the categories, i.e., open category as well as reserved category, making the same subject to the outcome of the pending SLP.

14. From the facts and circumstances of the case, as noted above, it is apparent that based on the Act of 2001 as well as the GR dated 25th May 2004, a number of candidates from the reserved category have been promoted through the LDCE during

the period from 2004 to 2014. The Original Applicants, apparently did not raise any objection to such promotion given to the reserved category candidate, at the relevant point of time. It further appears that the open category candidates had swung into action only after the decision in the case of ***Vijay Ghogre*** (Supra), whereafter, they had approached the learned MAT by filing the Original Applications, on the premise that if the promotions given to the reserved category candidates, based on the GR dated 25th May 2004, is declared to be illegal, then in that event, they would gain seniority over such candidates. However, the fact remains that save and except striking down the GR dated 25th May 2004, no declaration was issued by this Court in ***Vijay Ghogre*** (Supra) denuding beneficiaries of the said GR from the rights accrued to them on the basis of such promotions. The Judgment and Order dated 25th September 2025 passed by the learned MAT, also does not issue any declaration stripping the reserved category candidates of their seniority in service with effect from the date of their promotion in the respective posts.

15. Under such circumstances, we are of the *prima faice* opinion that merely because the GR dated 25th April 2004 has been struck-

down, the same cannot be sufficient ground to automatically deny the benefit of long years of seniority in service which might have accrued in favour of the reserved category candidates unless such a declaration is expressly made by the Court. Moreover, implementation of the Judgment dated 25th September 2025 passed by the learned MAT with any degree of retroactivity, in our opinion, would also lead to abrupt unsettling of the seniority position of a group of officers, whose seniority position have taken a firm footing over more than a decade.

16. As noted above, the Judgment and Order dated 4th August 2017 passed by this Court in ***Vijay Ghogre*** (Supra) is yet to attain finality. The question as to whether the GR dated 25th May 2004 is valid or not and if not, the consequences arising thereunder, are issues which are sub-judice before the Hon'ble Supreme Court in SLP (C) No. 28306 of 2017. Therefore, unless a verdict is delivered in the said SLP, no final opinion can be expressed in respect of validity of the GR dated 25th May 2004 and the consequence flowing therefrom.

17. Situated thus, we are of the opinion that the scale of justice will hang in balance and the interest of the Candidates as well as the Department would be adequately served, if the authority is permitted to process the promotion of eligible candidates on temporary basis, both, in the reserved category as well as the open category, in accordance with the rules, without being influenced by the Judgment and Order dated 25th September 2025 passed by the learned MAT.

18. In order to facilitate the above, the operation of the common Judgment and Order dated 25th September 2025, passed by the learned MAT in Original Application Nos. 834 of 2025, 843 of 2025 and Original Application No. 855 of 2025 is, hereby stayed until further orders.

19. Considering the projection made in the Reply and the submissions made at the Bar, we do not find any justifiable ground to interfere with the order of promotion dated 9th April 2026 for the present.

20. In so far as the contesting parties are concerned, subject to fulfillment of the requirement of the Rules, liberty is granted to

the Department to issue temporary order(s) of promotion in respect of the reserved category as well as open category candidates, in accordance with law, by making such promotion(s) subject to the final order that may be passed in SLP (C) No. 28306 of 2017 as well as in this proceeding.

21. With the above observations, this Interim Application stands disposed of.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)