



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 5999 OF 2025
WITH
WRIT PETITION NO. 6063 OF 2025
WITH
WRIT PETITION NO. 6762 OF 2025**

W.P.NO.5999/2025

1. Nikhil Ashok Dumane,
Age 25 year, occu:- unemployed
R/o. at. Waghalabardi, Ta. Armori,
Dist. Gadchiroli Maharashtra 441208
2. Vikas Vitthal Mandare,
Age 28 year, occu:- unemployed
R/o at post Jairampur, Chamo
Dist. Gadchiroli, Maharashtra 441208
3. Rajkumar Pocham Ganta,
Age 25 year, occu:- unemployed
R/o at. Nagaram, nagaram, Gadchiroli,
Maharashtra 442504
4. Mayur Nanaji Shende,
Age 23 year, occu:- unemployed
R/o at. Vihirgaon, Post: Gurwal,
Vihirgaonmokasa, Gadchiroli,
Maharashtra 442605
5. Lokesh Gajanan Battiwar,
Age 25 year, Occu:- Unemployed
R/o at. Dharmrao School Yenkapalli,
At: Yenkapalli Post: Alapalli Ta. Aheri,
Yenkapalli, Gadchiroli, Maharashtra-442703
6. Khushal Diwakar Bandawar,
Age 28 year, occu:- unemployed
R/o at. Bamhanidev, Ta. Chamorshi,
Bamhanidev, Jairampur, Gadchiroli
Maharashtra-442707.

7. Rupesh Sudhkar Buranwar,
Age 25 year, occu: unemployed
R/o at. Mudholi, Chak,n. 2,
Mudholichak No.1, Gadchiroli,
Maharashtra-442707
8. Praful Bapu Alamwar,
Age 25 year, occu:- unemployed
R/o. at post Rajaram, Ta. Aheri,
Rajaram, Gadchiroli,
Maharashtra 442709
9. Akshay Prabhakar Marbhate,
Age 30 year, occu: unemployed
R/o at. Vitthal Mandir, Ward no.1,
At. Post. Tah, Armori, Armori,
Gadchiroli, Maharashtra 441208
- 10.Komal Krushna Kumare,
Aged 25 years, occu: unemployed
R/o village Katezari, Post: Chatgaon
Tq.Dhanora, District Gadchiroli
- 11.Vaibhav Naktu Gedam,
aged 22 years, occu: unemployed,
R/o Village Shivani, Yewli, Tq and
Dist Gadchiroli
- 12.Pranjay Digambar Bodawar,
Aged 26 Years, occu: unemployed
R/o Yenapur Chamorshi,
Gadchiroli, Maharashtra 442707
- 13.Diwakar Anandrao Mekatiwar,
Aged 31 Years, Occu: Unemployed
R/o At Somanpalli, Post: Konsari
Tahsil : Chamorshi Dist: Gadchiroli
Maharashtra 442707

14. Ramesh Gajanan Shende,
Aged 31 years, Occu: unemployed
R/o Chandrapur Road, Murkhada,
Post: Mudza, Ta. Dist Gadchiroli
Murkhada Gadchiroli 442605

15. Parag Shankar Nilam,
Aged 26 years, occu: unemployed
R/o Tahsil Aheri, VTC Aheri,
Sub-dist Aheri Dist.: Gadchiroli
Maharashtra-442705

16. Vijay Shankar Gajulwar,
Aged 31 years, Occu: service R/o
At Post: Somanpalli, Tah: Chamorshi
Gadchiroli, Maharashtra-442707

// VERSUS //

1. Police Recruitment Board Gadchiroli
Through its Chairman
Being Superintendent of Police, Gadchiroli,
Having His Office at SP Office,
Gadchiroli, Maharashtra
2. State Of Maharashtra,
Through its Additional Chief Secretary
For Home Department,
Having Office At Mantralaya
Mumbai, Maharashtra
3. State of Maharashtra,
Through its Chief Secretary
For General Administration Department,
Having His Office At Mantralaya Mumbai
4. Additional Director General of Police,
Training and Special Squads,
having his office at Police Headquarters,
Shahid Bhagat Singh Marg, Kulaba,
Mumbai, Maharashtra 400001

5. Sumit Ishwar Kankalwar
6. Chetan Naktu Tunkalwar
7. Pratik Gajanan Gartulwar
8. Sunil Ishwar Chatur
9. Ankit Shivram Odengwar
10. Aditya Shantaram Kannamwar
11. Chandrakant Namdeo Yerewar
12. Gaurav Maroti Koriwar
13. Kartik Dilip Arewar
14. Akash Shamrao Kalewar
15. Prajwal Pochuram Bandawar
16. Swapnil Girma Rajurkar
17. Mukhru Charandas Barlawar
18. Chatrapati Maroti Kankalwar
19. Ritik Devrao Madawar
20. Maroti Dopaji Macchawar
21. Suraj Pandurang Madhamwar
22. Nikhil Ashok Dundalwar
23. Akash Shambhu Konchalwar
24. Khemraj Shalik Madhamwar

25. Roshan Bira Kankalwar
26. Umesh Mallaji Karewar
27. Suraj Vishwanath Choudhari
28. Pramod Yadav Sodirwar
29. Prafull Dashrath Chittalwar
30. Shubham Wasudeo Shirgewar
31. Subhash Kashinath Shettiwar
32. Nitesh Diwakar Barlawar
33. Parshuram Ishwar Tunkulwar
Respondents No. 5 to 33,
Through Superintendent
of Police Gadchiroli, Maharashtra.

.... RESPONDENTS.

Shri F.T.Mirza, Sr. Adv. a/b Shri Nihalsingh Rathod, Advocate for Petitioners.

Shri J.Y. Ghurde, A.G.P. for Respondent/ State.

Shri R.N.Ghuge, Advocate for Respondent Nos.5, 6, 7, 16, 21, 30 to 33.

Shri M.R.Khan, Advocate for Respondent Nos. 8 to 15, 17 to 20, 22 to 29, 31.

WITH
W.P. NO. 6063/2025.

1. Shruti D/o. Madhao Nanhe
Aged about 25 years, Occu : Nil,
R/o. Ward No.22, Gokul Nagar,
Chamorshi Road, Dist. Gadchiroli.
2. Rupali D/o. Atul Meshram,
Aged about 27 years, Occu : Nil,
R/o. Chapalwada, Tq. Chamorshi,
Dist. Gadchiroli.

3. Revati D/o. Pradeep Peshattiwar,
Aged about 20 years, Occu : Nil,
R/o. Telang Mohala, Ward No.2,
Tq. Chamorshi, Dist. Gadchiroli.
4. Nutan D/o. Dewaji Kasture,
Aged about 25 years, Occu : Nil,
R/o. At Post : Ashti, Tq. Chamorshi,
Dist. Gadchiroli.
5. Nikita D/o. Pocham Dontulwar,
Aged about 24 years, Occu : Nil,
R/o.At. Suddhagudam, Post Marpalli,
Tq. Aheri, Dist. Gadchiroli.

.... **PETITIONERS.**

// VERSUS //

1. State of Maharashtra, through its
Secretary, Home Department,
Mantralaya, Mumbai -32.
2. Additional Director General
of Police, Training & Special Unit
Maharashtra State, Mumbai.
3. Superintendent of Police,
Gadchiroli, Dist. Gadchiroli.

.... **RESPONDENTS.**

Shri Purushottam B. Patil, Advocate for Petitioners.
Shri J.Y. Ghurde, A.G.P. for Respondent/ State.
Shri Pavan P. Sarise, Advocate for Intervenors.

WITH
W.P. NO. 6762/2025.

1. Manjusha D/o. Sainath Sadulwar
Aged about 21 years, Occu : Nil,
R/o. Telang Mohalla, Post Chamorshi,
Gadchiroli, Maharashtra.
2. Kanchan D/o. Subhash Gedam,
Aged about 24 years, Occu.: Nil,
R/o. Kadamgaon, Chamorshi,
Gadchiroli, Maharashtra.

.... PETITIONERS.

// VERSUS //

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Home Affairs,
Mantralaya, Mumbai.
2. The Superintendent of Police,
Gadchiroli, SP Office,
Gadchiroli, Tah. & Dist.
Gadchiroli.
3. Vrushali D/o Jankiram Bahirewar,
Aged About 26 years, Occu: Nil,
R/o Ward No.1, Kishtapura Tola,
Kishtapur Chittaranjpur, Chamorshi,
Gadchiroli, Maharashtra.
4. Kalyani D/o Jagannath Kasanwar,
Aged About 26 years, Occu: Nil,
R/o at Post Bodali, Gadchiroli,
Maharashtra.
5. Mayuri D/o Gurudas Bhoyar,
Aged About 25 years, Occu: Nil,
R/o Post Wagholi, Tahsil Chamorshi,
Gadchiroli, Maharashtra.

.... RESPONDENTS.

Shri Tejas Deshpande, Advocate for Petitioners.
Shri J.Y. Ghurde, A.G.P. for Respondent/ State.
Shri P.A. Lohambare, Advocate for Intervenors.

**CORAM : SHREE CHANDRASHEKHAR,CJ. &
ANIL S. KILOR, J.**

DATE OF RESERVING THE JUDGMENT : 20/04/2026.
DATE OF PRONOUNCING THE JUDGMENT: 30/04/2026.

JUDGMENT

Per, Anil S. Kilor, J.

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. All these three petitions are arising out of a common judgment dated 25/09/2025, passed by the Maharashtra Administrative Tribunal, Nagpur in Original Application Nos.924 of 2024, 251 of 2025, 390 of 2025, 792 of 2025 and 849 of 2025, partly allowing the aforementioned Original Applications, directing the respondents to fill 49 posts which fell vacant at the end of the selection process from the category VJ NT (A) and VJ NT (D) by the candidates from the category VJ NT (B) and

VJ NT(C) in the proportion of the reservation percentage prescribed for the respective categories namely NT(B) and NT(C) and further directing to recalculate the seats (quota) of the above two categories for the purpose of horizontal reservation.

Brief facts of the present case are as under :

4. The petitioners herein are the aspirants of public service and in response to the notice of recruitment issued by the respondent/ State for recruitment to the post of Police Constable in Gadchiroli district, they applied either in the category of NT(B) or NT(C) as they belong to the respective category. As per the advertisement under the reserved category VJ NT 54 seats for VJ(A) category, 56 for NT(B) category, 57 posts for NT(C) category and 46 seats for NT(D) category, were reserved.

5. The petitioners appeared for Written Test as well as for Physical Test held by the respondent Police Recruitment Board. At the end of the selection process following was the position of the vacant seats :

TABLE-1

Sr.No	Category	Seats Reserved	Seats filled	Vacant
A.	VJ (A)	54	45	9
B.	NT (B)	50	50	0
C.	NT (C)	57	57	0
D.	NT (D)	46	06	40
	Total	207	158	49

6. Thus, there were total 49 seats remained vacant, out of which 9 from VJ(A) category and 40 from NT(D) category.

7. Section 4(3) of the Maharashtra State Public Services Reservation for Scheduled Castes, 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”), permits inter-transferability if suitable candidates for the posts reserved for any of the said categories are not available.

8. Thus, a dispute arose regarding the methodology to be adopted for filling the vacancies in the VJ(A) and NT(D) categories, which remained unfilled due to the non-availability of suitable candidates.

9. Consequently, the matter was referred to the Home Department of the Government of Maharashtra. The Home Department, in reply, vide communication dated 17/12/2024, recommended to transfer the vacant posts in the same proportion as of the reservation percentage for NT(B) and NT(C) categories i.e. 2.5% and 3.5%, respectively.

10. Contrary to the said recommendation, the petitioners demanded to fill the posts by common merit list of NT(B) and NT(C) categories on the basis of the merit only by preparing common merit list. It is further sought to transfer the vacant seats of VJ(A) and NT(D) categories meant for horizontal reservation to NT(B) and NT(C) categories and fill the same by horizontal reservation.

11. In the above referred backdrop on being unsuccessful before the Tribunal, now a challenge is raised to the impugned common judgment, dated 25/09/2025, passed by the Maharashtra Administrative Tribunal for upholding the transfer of the vacant posts in the proportion of reservation percentage for NT(B) and

NT(C) categories i.e. 2.5% and 3.5%, respectively, and for not transferring the vacant seats meant for horizontal reservation to NT(B) and NT(C) categories for filling the same.

Hence, these petitions.

12. Petitioner Nos. 1 to 9 in Writ Petition No.5999 of 2025 are the applicants in Original Application No.390 of 2025 with Manohar Samiah Gandrakota and Raju Vyenkanna Mittawar. However, the Petitioner Nos.10 to 16 were not party to any of the Original Applications. The prayer before the Tribunal in the aforementioned Original Application was to hold and declare that the applicants are entitled for appointment on the post of Police Constable being more meritorious. The consequential prayer was to hold them to be entitled for seniority, increments, salary etc. In addition, a prayer was for quashing and setting aside the advice dated 17/12/2024, and the appointments given to the respondent Nos. 4 to 32 in the said Original Application.

13. In Writ Petition No. 6063 of 2025, the petitioner Nos. 1 and 2 are the applicants in Original Application

No.792 of 2025 with one Dipika Nandu Matthan. The petitioner Nos. 4 and 5 were the applicant Nos. 3 and 5 in Original Application No.849 of 2025 with one Nilam Manohar Dighore, Reyati Pradeep Peshattiwar and Ankita Ashok Gadde.

14. The prayers in Original Application No. 792 of 2025 and 849 of 2025 were to consider their claim against 22 left out vacancies of women under VJ (A) and NT(D) category and fill up the said posts without applying the bifurcation on the basis of the reservation percentage applicable to NT(B) and NT(C) category while filling the aforementioned vacancies.

15. In Writ Petition No. 6762 of 2025 the petitioners were applicant Nos. 4 and 5 in Original Application No. 251 of 2025 with Vrushali Jankiram Bahirewar, Kalyani Jagannath Kasanwar and Mayuri Gurudas Bhoyar, and the prayers are similar as stated in aforementioned para 11.

16. We have heard the learned counsel for the respective parties.

17. Mr Mirza, learned Senior Advocate for the petitioners, submits that as per section 4(2) & (3) of the

Act of 2001, the vacant posts should be filled only by suitable candidates. There is no legislative intent appearing from any of the provisions that said division in proportion to the reservation quotient was intended. The impugned action of the respondents is illegal, arbitrary, and contrary to the settled principles governing public employment.

18. Mr Mirza, learned Senior Advocate for the petitioners, further submits that the Tribunal has ignored the use of phrase “any of the said category”. The use of the term “suitable candidate from any of the said categories” in itself rules out selecting candidates by applying in proportion of reservation percentage of the respective category.

19. Mr Mirza, learned Sr. Advocate for the petitioners, contends that the rigid application of compartmentalised reservation adopted by the respondents to allocate the seats defeats the very object of section 4(3) of the Act of 2001. Instead of this approach, the respondents were required to adopt a merit-based approach that considered eligible candidates across VJNT categories,

rather than mechanically restricting selection to compartmentalised categories. In support of his submissions, the learned Senior Advocate for the petitioners has placed reliance on the decision of the Hon'ble Supreme Court in *Anil Kumar Gupta v. State of U.P.*, reported in **(1995) 5 SCC 173**, to contend that the process of selection must adhere to a structured and rational methodology.

20. It is also submitted that the appointments granted to Respondent Nos. 5 to 33 are illegal, inasmuch as they have been made without adhering to the principle of merit and in disregard of eligible candidates like petitioners.

21. Shri P.B.Patil, learned counsel for the petitioners in WP No.6063/2025 contended that the vacancies earmarked for women candidates if left unfilled in a particular sub-category the same ought to have been filled by women candidates from other categories. He, therefore, submits that since the seats earmarked for women candidates in the categories of VJ(A) and NT(D) fell vacant, it should be filled by transferring it to NT(B)

and NT(C) category, on merit.

22. Shri. Tejas Deshpande, learned counsel for the petitioners in WP No.6762 of 2025 has reiterated the aforementioned arguments made by the learned counsel for the petitioners.

23. On the other hand, learned AGP appearing for the respondent/State submits that the recruitment process has been conducted strictly in accordance with the applicable rules, Government Resolutions, and the provisions of the Act of 2001. It is contended that the petitioners have no vested right to claim appointment merely on the basis of securing higher marks.

24. Further, the learned AGP contended that in view of Section 4(3) of the Act of 2001, the vacancies arising due to non-availability of candidates in certain VJNT categories were required to be filled from other VJNT categories. Accordingly, based on administrative guidance and applicable policy, the vacant posts were distributed proportionately, resulting in the allocation of posts to NT(B) and NT(C) categories.

25. Having considered the rival contentions and gone

through the record a question which falls for consideration is, whether in case of non-availability of the suitable candidate in any of the category/categories viz. VJ(A), NT(B), NT(C) and NT(D), the permissible inter-transferability of seats among the said categories, should be filled by common merit list or it should be filled in the same proportion of the reservation percentage of the respective category?

26. Let us ponder upon it. It is evident from record that while issuing the advertisement dated 05/03/2024 for 'Recruitment for Police Constable', initially 742 vacancies were notified, which were subsequently raised to 912 vacancies by way of a corrigendum to the said advertisement.

27. It is to be noted that the seats reserved for VJ NT category were sub-divided into four categories, namely VJ(A), NT(B), NT(C), and NT(D). The following chart shows the reservation percentage for all the four categories: :

TABLE-2

Category	VJ-A	NT-B	NT-C	NT-D
Total	54	50	57	46
Compartmentalized reservation. ↓				

General	15	18	16	15
Women	16	15	17	14
Sports	3	2	3	2
Project Affected	3	2	3	2
Earthquake Affected	1	1	1	1
Ex-Servicemen	8	7	9	7
Part-time Degree Holders	3	2	3	2
Police Wards	2	1	2	1
Home Guard	3	2	3	2
Orphan	1% out of total vacancies			

28. At the end of the selection process, 49 seats remained unfilled, out of which 9 seats from VJ(A) category and 40 seats from NT(D) category.

29. In the advertisement no methodology was given to fill up such vacant posts.

30. Section 4(3) of the Act of 2001, therefore, would be relevant to refer to, which reads thus :

"4. Reservation and Percentage :

(1) & (2) ...

(3) The reservation specified for the categories mentioned at serial numbers (3) to (6) (both inclusive) in the table under sub- section (2) shall be inter transferable. If suitable candidates for the posts reserved for any of the said categories are not available in the same recruitment year, the posts shall be filled by appointing suitable candidates from any of the other said categories."

31. It is evident from the language of the above referred provision that, in case of any vacancy among

any of the category mentioned herein above, for the reason that no suitable candidate is found, inter-transferability is permissible and the posts shall be filled by appointing suitable candidates from any of the said categories.

32. Does Section 4(3) of the Act of 2001 suggest to fill up the vacant seats by preparing a common merit list or does it suggest that the seats shall be filled, in proportion of reservation percentage as prescribed for the respective category, is to be examined?

33. To answer this, it is important to note that the VJ NT category is divided in four sub-categories viz. VJ(A), NT(B), NT(C) and NT(D) for vertical reservation, as we have seen herein above in Table No.1. It is important to note that for all the aforementioned four sub-categories of VJ NT, equal reservation is not prescribed but different percentage of reservation is prescribed, which is as follows :

TABLE-3

Description of Caste/Tribe/ Category/Class	Percentage of vacancies or seats to be reserved
(1) De-notified Tribes (A)	3 percent.

(2) Nomadic Tribes (B)	2.5 percent.
(3) Nomadic Tribes (C)	3.5 percent.
(4) Nomadic Tribes (D)	2 percent.

34. Thus, it is evident that upon bifurcation of the VJ NT category into four separate categories, the allocation of reservation percentages was not maintained equal or uniform; rather, distinct percentage has been assigned and prescribed for each of such category. This, *ex facie*, without element of any doubt, indicates that the aforementioned four categories were not intended to be treated at par in terms of reservation.

35. In the circumstances, we are of the considered view that where a vacancy arises in any one or more of the said categories, and the same is sought to be filled through inter-transferability among these categories, the original intent of maintaining differential reservation percentage is not obliterated. On the contrary, such differential allocation continues to operate. Consequently, any vacancy so transferred and filled must adhere to the reservation percentage applicable to the category to which the vacancy is ultimately allocated, even while adopting the method of inter-transferability.

36. Thus, we do not find any error committed by the Tribunal in holding that Section 4(3) of the Act of 2001 does not suggest that the candidates are to be selected from the common merit list and accordingly, rejected the prayers made by the petitioners to fill in the vacant seats of VJ(A) and NT(D) categories by preparing common merit list from NT(B) and NT(C) categories, on merit basis.

37. As regards the second issue involved as regards horizontal reservation, the law in this regard is no more *res integra*. The Hon'ble Apex Court in the case of *Anil Kumr Gupta* (supra), held thus :

“18. Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be filled up first and then take up the OC (merit) quota (followed by filling of OBC, SC and ST quotas). The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., SC, ST and BC; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied — in case it is an overall horizontal reservation — no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical

reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the OC quota.”

38. Thus, we do not find any error committed by the Tribunal in observing that the horizontal quota is to be filled within the vertical category only and cannot travel from one vertical category to any other vertical category. If a suitable candidate corresponding to the horizontal reservation is not available then the vacant post has to be filled by another candidate from the same vertical reservation as per the merit.

39. In the above referred backdrop, considering the number of vacancies fell in VJ(A) and NT(D) categories, the Tribunal has rightly directed to fill-in these vacancies in the proportion of the reservation percentage of the respective category for the purpose of vertical reservation. And for horizontal reservation, it is rightly directed to recalculate the total number of vacancies in NT(B) and NT(C) categories. However, a modification is necessary to the extent that while doing so it is to be

examined whether the required number of candidates belonging to the horizontal category have already been selected within respective vertical categories, namely NT(B) and NT(C). If the quota is already satisfied, nothing further is required. However, if it is not satisfied, then additional candidates from the horizontal category must be adjusted within their respective vertical categories.

40. Accordingly, we pass the following order :

Writ Petition Nos.5999 of 2025, 6063 of 2025 and 6762 of 2025 are **dismissed**, with the modification that, after recalculating the total number of vacancies in NT(B) and NT(C) categories for the purpose of horizontal reservation, it shall be examined whether the requisite number of candidates belonging to the horizontal category have already been selected within their respective vertical categories, namely NT(B) and NT(C). In the event the prescribed quota is found to have been duly satisfied, no further action shall be necessary. However, if the quota is not satisfied, the respondents shall ensure that the requisite number of candidates from the horizontal category are duly adjusted within their

respective vertical categories, in accordance with law.

Rule stands discharged. No order as to costs.

(ANIL S. KILOR, J)

(CHIEF JUSTICE)

RRaut.