

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**COMMON JUDGMENT IN : O.A. NOS. 144, 145, 146, 167,
203, 300, 301, 321, 775, 776, 777, 778, 779, 790, 791,
793, 796 AND 830 ALL OF 2022**

(1) ORIGINAL APPLICATION NO. 144/2022

DIST. : JALNA

Shri. Amit Harishchandra Daphal,

Aged : 23 years, occu. Nil,
R/o A/P Dhamari, Tal. Shirur,
District Pune

.. **APPLICANT**

VERSUS

1. The superintendent of Police Raigad Alibagh, having office at Tilak Road, Alibagh, District Raigad.
2. The Additional Director General of Police (Training and Special Unit) M.S Mumbai having office in the office of the Director General and Inspector General of Police, M.S Mumbai, old council Hall, Shahid Bhagat Singh Marg, Mumbai-400 039.

.. **RESPONDENTS**

WITH

(2) ORIGINAL APPLICATION NO. 145/2022

DIST. : SOLAPUR

1. **Abaso Dattatraya Nazirkar,**
Aged 34 years, Occ. Nil,

R/at A/P Nazire, K.P.
Tal. Purandar, Dist. Pune.

- 2. Nitin Bapu Dhulagude,**
Aged 22 years, Occ. Nil,
R/at A/P Achakadani,
Tal. Sangola, Dist. Solapur.

.. **APPLICANTS.**

VER S U S

- 1. The Commissioner of Police,**
Navi Mumbai Police Commissionerate,
Having office at CBD, Belapur,
Navi Mumbai.
- 2. The Additional Director General of Police**
(Training and Special Unit),
(M.S.), Mumbai,
Having Office in the office
of the Director General and
Inspector General of Police,
(M.S.), Manbai,
Old Council Hall,
Shahid Bhagatsinh Marg,
Mumbai – 400 039.
- 3. Shri Ganesh Pawar,**
Age. Major, Occ. Farmer,
R/o A/P Dhongarwadi, Manikdaundi,
Ahmednagar.
- 4. Shri Somnath Appa Gawali,**
Age. Major, Occ. Farmer,
R/o A/P Yeswadi, Baradgaon,
Sudhrik, Karjat, Ahmednagar.
- 5. Shri Ramdas Shravan Padle,**
Age. 31 years, Occ. Farmer,

R/o S/o Shraven Paddle
 Korandi Khurd, Post Korandi Budruk,
 Korandi Khurd, Korendi Bk.
 Pune, Bhor. 412 206. ..

RESPONDENTS

W I T H

(3) ORIGINAL APPLICATION NO. 146/2022

1. Shri Tanaji Randhan Andhale,

Aged 26 Tra, Occ. Nil
 B/o. C/o. Sangram A. Matakokar,
 Room No. 10, Grd Floor, Maigaum)
 Police B.Q., B.J. Deorukhar marg,
 Naigaon, Dadar (R), Mumbai-400014]

2. Shri Rahul Chhagan Waghmode,

Aged 23 Trs, Dec. Nil,
 B/o. A/P Khorochi,
 Tal. Indapur, Dist. Pune. ..

APPLICANTS

V E R S U S

1. The Superintendent of Police,

Solapur (Rural),
 Having Office at Solapur.

2. The Additional Director General of Police

[Training and Special Unit), 1
 [M.S], Mumbai,
 Having Office in the office
 of the Director General and
 Inspector General of Police, 1
 (M.S.), Mumbai,
 Old Council Hall,
 Shahid Bhagatsinh Marg,
 Mumbai- 400 039. ..

RESPONDENTS

(4) ORIGINAL APPLICATION NO. 167/2022

DISTRICT. : SOLAPUR

Satyawan Bhairavnath Godase,

Age. 28 years, occu. Student,
R/at Post Mallewad, Tq. Mangalvedha,
Dist. Solapur 413 305.

.. **APPLICANT.****VER S U S****1. The State of Maharashtra,**

Through the Secretary,
Home Department, Mantralaya,
Mumbai 400 032.

2. The Superintendent of Police,

Collector Compound,
Sidheshwar Peth,
Solapur, Maharashtra 413 001.

3. The Superintendent of Police,

Jail Rd., Police Head Quarters,
Ratnagiri, Maharashtra 415 612.

4. Ehatesham Abdulgafar Shaikh,

Through the Superintendent of Police,
Collector Compound, Sidheshwar Peth,
Solapur, Maharashtra 413 001.

5. Additional Director General of Police,

(Training & Special Unit),
Office of the Director General of Police,
Shahid Bhagat Singh Road,
Colaba, Mumbai 400 001.

.. **RESPONDENTS.****(5) ORIGINAL APPLICATION NO. 203/2022**

Dist. : Solapur

Ashok Mallinath Halasangi,
Age. 27 years, Occ. Student,
R/at Bharat Gas Godwan,
Near Station Road, Akkalkot,
Dist. Solapur 413 216.

.. **APPLICANT.**

VERSUS

- 1. The State of Maharashtra,**
Through the Secretary,
Home Department, Mantralaya,
Mumbai 400 032.
- 2. The Superintendent of Police,**
Collector Compound,
Sidheshwar Peth,
Solapur Maharashtra 413 001.
- 3. The Superintendent of Police,**
204, National Highway,
Sangli – Miraj Rd.,
Saraswati Nagar, Vishrambag,
Sangli, Maharashtra – 416 416.
- 4. Additional Director General of Police,**
(Training & Special Unit),
Office of the Director General of Police,
Shahid Bhagat Singh Road,
Colaba, Mumbai 400 001.
- 5. Anil Bhaskar Pakhare**
Age. 30 years, Occ. Nil,
R/at Post Manjargon, Tal. Karmala,
Dist. Solapur - 413203.
- 6. Dhanaji Bhagwan Vagare**
Age. 30 years, Oce. Nil,
at Post Vhaspet, Tal. Jath,

Dist. Sangli 416413

7. Ehatesham Abdulgafar Shaikh

Age. Adult, Occ. Nil,
R/at. Post Korti, at Laxmi Takali,
Tal. Pandharpur, Dist. Solapur 413304.

8. Arun Ulhas Godse

Age. Adult. Occ. Nil,
R/at. M. Somewadi, Post. Gaudwadu,
Tal. Sangola, Dist, Solapur-413308.

9. Kiran Krushna Raut

Age. Adult, Occ. Nil,
R/at. 62-B, Vijay CHS, Kumthe Gaon,
Tal. Solapur North,
Dist. Solapur 413 224.

.. **RESPONDENTS.**

WITH

(6) ORIGINAL APPLICATION NO. 300/2022

DIST. : Sindhudurg

Shri. Shubham Janardan Sawant,

Aged 25 years, occ. Nil,
R/o A/P Sandrewadi, Pokhran,
Kudal, Dist. Sindhudurg.

.. **APPLICANT**

VERSUS

1. The Commissioner of Police,

Mumbai Crawford Market,
Mumbai,
having office Dist. Mumbai.

2. The Additional Director General

of Police (Training and Special Unit)
M.S., Mumbai having office
in the office of the

Director General and Inspector General of police,
(M.S.) Mumbai, Old Council Hall,
Shahid Bhagatsinh Marg,
Mumbai-400 039.

.. **RESPONDENTS**

(7) ORIGINAL APPLICATION NO. 301/2022

Dist. : Satara, Nashik, Pune etc.

1. Sandip Dilip Shinde,

Age. 30 years, Occ. Nil,
A/P Raigaon, Tq. Jawali,
Dist. Satara.

2. Amol Vitthal Khandekar,

Age. 30 years, Occ. Nil,
R/o A-Mahalkheda,
P-Nimgaon (Mad), Tq. Yeola,
Dist. Nashik.

3. Nitin Pandurang Shejwal,

Age. 24 years, Occ. Nil,
A/P A-Sulewadi, P-Sonawade,
Tal. Patan, Dist. Satara.

4. Balaji Sidram Shinde

Age. 29 years, Occ. Nil,
R/o C/o Madhav More,
Shastri Nagar, Bhosari,
Pune.

5. Nagesh Balaji Kamble,

Age. 29 years, Occ. Nil,
A/P Room No. 603,
Matoshree Bldg., 65, B Wing,
6th floor, Near Indian Bank,
Tilak Nagar, Chembur,
Mumbai.

.. **APPLICANTS**

VERSUS

1. **The Commissioner of Police,**
Thane Police Commissionerate,
having office at Thane.
2. **The Additional Director General
of Police** (Training and Special Unit)
M.S., Mumbai having office
in the office of the
Director General and Inspector General of police,
(M.S.) Mumbai, old Council Hall,
Shahid Bhagatsinh Marg,
Mumbai-400 039. .. **RESPONDENTS**

(8) ORIGINAL APPLICATION NO. 321/2022

Shri Pankaj Lahu Phanse,
Age. 28 years, Occ. Nil,
R/o. A-Dasawadi,
P-Chikli, Tal. Wai,
District Satara. .. **APPLICANT**

VERSUS

1. **The Commissioner of Police,**
Thane, having office at Crawford
Market, Thane.
2. **The Additional Director General of
Police,** (Training and Special Unit),
(M.S.) Mumbai, Having office in the
office of the Director General and
Inspector General of Police,
[M.S.], Mumbai, Old Council Hall,
Shahid Bhagatsingh Marg,
Mumbai – 400 039. .. **RESPONDENTS.**

WITH

(9) ORIGINAL APPLICATION NO. 775 OF 2022**DISTRICT : MUMBAI**

Vijay S/o. Rajendra Sarole,
Age-27 years Occu.-Service
R/o: At post Andhori,
Tal. Ahmedpur, Dist. Latur.

.. APPLICANT.**V E R S U S**

1. The Superintendent of Police Latur,
Having office at Ambejogai Road,
Latur, Dist. Latur.

**2. The Additional Director General of
Police,**
(Training and Special Unit), M.S.
Mumbai,
Having office in the office of the
Director General and Inspector
General of Police, M.S. Mumbai,
Old Council Hall, Shahid Bhagatsing
Hall, Mumbai – 400 039.

3. Dhanraj S/o. Digambar Shinde,
Age : Major, Occu. Nil,
R/o At Dagal Mali, Post Sawagi Mali,
Tq. Mehkar, Dist. Buldhana

.. RESPONDENTS.**(10) ORIGINAL APPLICATION NO. 776 OF 2022****DISTRICT : MUMBAI**

Sumit Kisan Rathod,
Age-28 years Occu.-Service
R/o: Mandava, Post : Wanola
Tal. Mahur, Dist. Nanded.
Presently working at Police
Headquarters, Bhandara

.. APPLICANT.**V E R S U S**

1. **State of Maharashtra,**
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.
2. **The Additional Director General of Police,**
(Training and Special Unit), M.S.
Mumbai, Old Council Hall,
Shahid Bhagatsing
Hall, Mumbai – 400 039.
3. **The Superintendent of Police**
Bhandara,
4. **Anil Namdev Rathod,**
Age: Major, Occu. Nil,
R/at Post Rathodnagar,
Tal. Jalna, Dist. Jalna.

.. **RESPONDENTS.**

(11) ORIGINAL APPLICATION NO. 777 OF 2022

DISTRICT : MUMBAI

Shrikrushna Niranjn Damre,
Age-24 years Occu.-Service
R/o At post Pathardi,
Tal. Telhara, Dist. Akola.
Presently working at Police
Headquarters, Bhandara

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APPLICANT.

V E R S U S

1. **The State of Maharashtra,**
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.
2. **The Additional Director General of Police,**
(Training and Special Unit), M.S.
Mumbai, Old Council Hall, Shahid
Bhagatsingh Hall,
Mumbai-400 039.

**3. The Superintendent of Police
Bhandara,**
Bhandara.

4. Prajwalit Sanjay Borkar,
Age : 26 years, Occu. Nil,
R/o Shivni, Tal.: Yawatmal,
Dist. Yawatmal-445 001.

.. RESPONDENTS.

W I T H

(12) ORIGINAL APPLICATION NO. 778 OF 2022

DISTRICT : MUMBAI

Shankar Balasaheb Survase,
Age-25 years Occu.- Service
R/o At Borgaon (Bk), Post Chatori,
Tal. Palam, Dist. Parbhani.
Presently working at Police
Headquarters, Bhandara

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.
- 2. The Additional Director General of
Police,**
(Training and Special Unit), M.S.
Mumbai, Old Council Hall, Shahid
Bhagatsingh Hall,
Mumbai-400 039.
- 3. The Superintendent of Police
Bhandara,**
Bhandara.
- 4. Shankar Arjunrao Kundkar,**
Age : 26 years, Occu. Nil,

R/o At Badnapur, Tal. Badnapur,
Dist. Jalna.

.. RESPONDENTS.

W I T H

(13) ORIGINAL APPLICATION NO. 779 OF 2022

DISTRICT : MUMBAI

Sham Laxman Takle,
Age-28 years Occu.-Service
R/o At post Ambulga,
Tal. Kandhar, Dist. Nanded.
Presently working at Police
Headquarters, Bhandara

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.
- 2. The Additional Director General of
Police,**
(Training and Special Unit), M.S.
Mumbai, Old Council Hall, Shahid
Bhagatsingh Hall,
Mumbai-400 039.
- 3. The Superintendent of Police
Bhandara,**
Bhandara.
- 4. Somnath Vishnu Fuke,**
Age : 29 years, Occu. Nil,
R/o At Umarched, Tal. Bhokardan,
Dist. Jalna.

.. RESPONDENTS.

(14) ORIGINAL APPLICATION NO. 790/2022

DISTRICT : NASHIK

- 1. VAIBHAV LAXMAN GHUMARE**

Age: 25 years, Occupation: Farmer
Residing at: At and post Bramhanwade,
Post- Khedle, Niphad, Nashik-422 305

2. NITIN ASHOK NANGARE

Age: 36 years, Occupation: Farmer
Residing at: Flat No. 201,
2 Floor, House No. 1240-06)
Eknath Apartment, Thane
Belapur Road, Ghansoli Gaon)
Navi Mumbai, Thane,
Maharashtra- 400 701

3. SAMADHAN JOTIRAM JADHAV

Age 26 years, Occupation : Farmer
Residing a Chinchvir, Nashik
Maharashtra 424 109

4. ATISH PATIL

Age : 27, Occu. Farmer,
Residing at House No. 346,
Post-Diwashi Biwandi,
Thane 421302

5. Ajit Balram Bhoir

Age : 29 years, Self-employed
At Kosle Post, Vehale Tq. Kalyan
Dist. Thane 421 601 ..

APPLICANTS

V E R S U S

1. THE STATE OF MAHARASHTRA

Through the Secretary, Home
Department, Mantralaya,
Mumbai 400 032.

2. THE COMMISSIONER OF POLICE

Thane Police Commissioner,
Having its address at Near Kalwa
Bridge, Thane 400 601.

**3. THE ADDITIONAL DIRECTOR
GENERAL OF POLICE**

(Training and Special Unit),

M.S. Mumbai
Having office in the office of the
Director General and Inspector
General of Police, M.S. Mumbai,
Old Council Hall, Mumbai 400 039

4. **SANDIP DILIP SHINDE**
Age 30 years Occupation Nil,
Residing at at and post Raigaon,
Tq. Jawali, District Satara.
5. **AMOL VITTHAL KHANDEKAR**
Age 30 years, Occupation: Nil
Residing at At Mahalkheda,
Post Nimgaon) Tq. Yewala,
Dist. Nashik.
6. **NITIN PANDURANG SHEJWAL**
Age: 24 years Occupation: Nil
Residing At Sulewadi. Post-Sonawade)
Taluka Patan District-Satara
7. **BALAJI SIDRAM SHINDE**
Age: 29 years, Occupation: Nil
Residing at C/o Madhav More
Shastri Nagar, Bhosari, Pune
8. **NAGESH BALAJI KAMBLE**
Age: 29 years, Occupation: Nil
Residing at Room No. 603,
Matoshree Building.
65,B Wing, 6 Floor, Near Indian Bank,
Tilak Nagar, Chembur, Mumbai
9. **PANKAJ LAHU PHANSE**
Age: 28 years, Occupation: Nil
Residing at A-Dasawadi, P. Chikli
Tal- Wai District-Satara
10. **Kiran Sheshrao Narode**
kirannarode513@gmail.com
kirannarode69@gmail.com
11. **Shivaji Pandhari Pawar**

Shivajipawar1989@gmail.com

12. Umesh Bharat Kanade
akshumore5@gmail.com .. **RESPONDENTS**

W I T H

(15) ORIGINAL APPLICATION NO. 791/2022

DISTRICT : AHMEDNAGAR

1. GANESH PAWAR

Age: Major, Occupation. Farmer
 Residing at : At and post Dhangarwadi,
 Manikdaundi, Ahmednagar-414 102.

2. SOMNATH APPA GAWALI

Age: Major, Occupation: Farmer
 Residing at : At and post Yeswadi,
 Baradgoan, Sudhrik, Karjat.
 Ahmednagar.

3. RAMDAS SHRAVAN PADLE

Age: 31 years, Occupation: Farmer
 Residing at : S/o Shravan Paddle,
 Karandi, Khurd, Post- Karandi Budruk,
 Karandi Khurd, Karandi Bk,
 Pune, Bhor, Maharashtra-412206. **..APPLICANTS**

V E R S U S

1. THE STATE OF MAHARASHTRA

Through the Secretary,
 Home Department, Mantralaya,
 Mumbai 400 032.

2. THE COMMISSIONER OF POLICE

Navi Mumbai Police Commissionerate,
 Having its address at Sector No. 10,
 Opposite RBI, CBD-Belapur,
 Navi Mumbai: 400 614

- 3. THE ADDITIONAL DIRECTOR
GENERAL OF POLICE,**
(Training and Special Unit), M.S.,
Mumbai.
Having office in the office of
the Director General and Inspector
General of Police, M.S., Mumbai,
Old Council Hall,
Mumbai-400 039
- 4. ABASO DATTATRAYA NAZIRKAR,**
Age: 34 years, Occupation: Nil,
Reading at: At and post Nazire KP,
Tal. Purander, District-Pune.
- 5. NITIN BAPU DHULAGUDE**
Age: 22 years: Occupation: Nil
Residing at : At and post Achakadani,
Tal. Sangola, District-Solapur.
- 6. Vinayak Sidram Bhosale,**
vinunavimumbaidriver@gmail.com
vinayakmumbaidriver2@gmail.com
7. Arjun Haribhau Ghodke,
arjunghoadke5601@gmail.com
ghodkea550@gmail.com .. **RESPONDENTS**

W I T H

(16) ORIGINAL APPLICATION NO.793 OF 2022

DISTRICT : MUMBAI

Mahadeo Dnyandeo Patil,
Age 41 years, Occu: Service
R/at Post Banega, Tal. Kagal,
Dist. Kolhapur.
Presently working at Police Headquarters,
Ratnagiri.

.. **APPLICANT**

V E R S U S

1. The State of Maharashtra,

Through as Principal Secretary,
Home Department, Mantralaya,
Mumbai.

2. The Additional Director General of Police,

Training and Special Unit,
M.S Mumbai, Old Council Hall,
Shahid Bhagatsingh Hall,
Mumbai 400 039.

3. The Superintendent of Police

Ratnagiri.

4. Sagar s/o Dinkar Nikam

Age: Major, Occu Nil,
R/o at Dist. Satara.

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RESPONDENTS

W I T H

(17) ORIGINAL APPLICATION NO. 796 OF 2022

DISTRICT : MUMBAI

Vijay Ashok Bhowad,

Age-29 years, Occu.-Service
R/at Phuperi, Post Angeli
Tal. Rajapur,
District Ratnagiri,
Presently working at Police
Headquarters, Ratnagiri.

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APPLICANT.

V E R S U S

1. The State of Maharashtra,

Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai.

2. The Additional Director General of Police,

(Training and Special Unit), M.S.
Mumbai, Old Council Hall, Shahid
Bhagatsingh Hall,

Mumbai-400 039.

3. **The Superintendent of Police
Ratnagiri,**
Ratnagiri.
4. **Ankush Shainath Kalwane**
Age : Major, Occu. Nil,
O/o the Superintendent of Police,
Ratnagiri, Ratnagiri.

.. RESPONDENTS.

W I T H

(18) ORIGINAL APPLICATION NO. 830 OF 2022

DISTRICT : MUMBAI

1. **Anil Bhaskar Pakhare**
Age-30 Occu.-Nil
Residing at At Post Manjargon,
Tal-Kamala, Dist. Solapur.
2. **Ram Popat Rawalu,**
Age 26, Residing at post Korti,
Laxmi Takali, Tal-Pandharpur,
District Solapur
3. **Sagar Vitthal Londhe**
Age: 29 A/p Jeur, Tal-Karmal,
District Solapur, 413 202
4. **Dhanaji Bhagwan Vagare**
Age-30 Residing at Post Vhaspet
Taluka Jath, Dist. Sangli 416 411
5. **Ehatesham Abdulgafar Shaikh**
Residing at Post Korti,
At- Laxmi Takali
Tal. Pandharpur, 413 304
6. **Anant Ashroba Jogdand**
Age-27 Residing at Post Narwadi,
Taluka Sonpeth
Dist. Parbhani, 431 516

7. Arun Ulhas Godse
R/a-M-Somewadi, Post-Gaudwadi,
Tal-Sangola, Dist. Solapur, 413 308

8. Kiran Krushnat Raut
Age 30 occupation:-
Residing at 62b, Vijay Gruha
Nirman Sanstha, Kumathe gaon
Solapur 413 224

.. **APPLICANTS.**

V E R S U S

- 1. State of Maharashtra**
Through the Additional Chief Secretary,
Home Department,
Mantralay, Mumbai 400 032
- 2. Additional Director General of Police**
(Training and Special unit),
Mumbai, Maharashtra State 400 001.
- 3. The Superintendent of Police**
Collector Compound
Siddeshwar Peth, Solapur 400 001,
- 4. The Commissioner of Police**
Thane Police Commissionerate,
Having office at Thane
- 5. Amit Harishchandra Daphal,**
Age 23 years, Occ-Nil,
R/a-A/p Dhamri, Taluka Shirrur,
Dist. – Pune.
- 6. Abaso Dattatray Nazirkar**
Age 34 years, Occ-Nil,
A/p-Nazire, K.P.
Taluka-Purandar, Dist. Pune.
- 7. Nitin Babu Dhulagude**
Age:22 Oco-Nil
A/p Achakadani, Taluka- Sangola
District Solapur.

- 8. Tanaji Ramdhan Andhale**
Age-26 Occu-Nil
R/a C/o Sangram A Matakekar
Rooms no. 10, Ground floor,
Naigaon Police HQ, BJ Revrukhkar Marg,
Naigaon, Dadar- East Mumbai 400 014.
- 9. Rahal Chagan Waghmode**
Age-29 Oce-Nil
A/p Khoroji, Taluka Indapur,
Dist. Pune.
- 10. Satyavan Bhairavnath Godse**
Age 28 Occ- Nil
R/a-Post Mallewad, Mangalvedha,
Dist.-Solapur 413 305
- 11. Ashok Mallinath Halasangi**
Age-27 yrs, Occ-Student
R/at Bharat Gas Godown,
Near Station Road, Akkalkot,
District Solapur 413 216
- 12. Shubhan Janardan Sawant**
Age-28 Occu-Nil
A/p-Sandrewadi, Pokhran
Taluka-Kudal, Dist-Sindhudurg
- 13. Samadhan Dilip Shinde**
Age-25 yrs, Occ-Nil
At post Tembhurni, Taluka-Madha
District-Solapur-413 211
- 14. Sandip Dilip Shinde**
Age-30 yrs, Occ-Nil
A/p Raigaon. Taluka Jawali
District-Satara
- 15. Amol Vitthal Khandekar**
Age-30 yes. Occu Nil
R/o S-Mahakheda,
P-Nimgaon (Mad),
Taluka Yeola, District- Nashik

16. Nitin Pandurang Shejwal

Age-24 yrs, Occu-Nil
R/o. A-Sulewadi, P-Sonawade,
Taluka-Patan, District-Satar

17. Balaji Sidram Shinde

Age-29 yrs, Occu-Nil
Resident of Madhav More
Shastri Nagar, Bhosari, Pune

18. Nagesh Balaji Kamble

Age-29 yrs. Occ-Nil
R/o Room no, 603, Matoshree Bldg.
65. B wing, 6 floor, Near Indian Bank,
Tilak Nagar, Chembur,
Mumbai

19. Pankaj Lahu Fanase

Age28 Occ-nil
R/o Dasawadi Post Chikhali
Taluka-Vai, Dist- Satara.

20. Rameshwar Dyanoba Chate

ramchate121212@gmail.com
Rchate1515@gmail.com

21. Shahrukh Shabbir Mulla

shahrukhmullasm100@gmail.com

22. Vitthal Parmeshwar Surwase

Vitthalsurwase4gmail.com

.. RESPONDENTS

APPEARANCE :

Shri S.S. Dere, Shri B.A. Bandiwadekar, Shri Pranav Avad with Ms Darshna Naval, Shri D.B. Khaire, Ms. Pradnya Talekar with Ms. Madhavi Ayyappan, learned counsel holding for Shri S.B. Talekar learned counsel for applicants in respective applications and Shri A.B. Moon, learned counsel for four candidates appointed on the basis of earlier order passed by the Tribunal, not party to any of the present applications.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent authorities.

O.A. Nos. 300 & 301 of 2022, no one has caused appearance.

CORAM : **HON'BLE JUSTICE P.R. BORA,**
VICE CHAIRMAN (J)
AND
HON'BLE JUSTICE M.G. GIRATKAR,
VICE CHAIRMAN (J)
AND
HON'BLE SMT. MEDHA GADGIL, MEMBER (A)
DATE : **17.03.2023**

J U D G M E N T

(Per : JUSTICE P.R. BORA, VICE CHAIRMAN)

1. Pursuant to the order dated 22.12.2022 passed by the Division Bench in Original Application No. 144/2022 and others, the Hon'ble Chairperson of the Maharashtra Administrative Tribunal constituted the present Larger Bench to hear these Original Applications. The Larger Bench had sat on 5.1.2023 and 6.1.2023, however, no effecting hearing could take place on the aforesaid dates, the reasons of which are recorded in Daily Farad Sheet of 6.1.2023. Thereafter, with the consent of learned counsel appearing for the parties and the learned Chief Presenting Officer for the State authorities, the arguments were heard by the Larger Bench on 17.1.2023 and 18.1.2023.

Background

2. All these matters are arising out of the 'Recruitment Process' carried out for the recruitment of 'District Police

Constable Drivers' on the establishments of the District Superintendent of Police/Commissioner of Police. The Home Department of the State of Maharashtra had resolved to hold the competitive written examination through Mahapariksha portal and for that examination online applications were invited by the eligible candidates. An advertisement was therefore issued on 30.11.2019 on the website of Police www.mahapolice.gov.in. The said advertisement was also made available on the website of the concerned Police units. Online applications were to be filled in, in the period between 2.12.2019 to 22.12.2019. The timetable of the examination was to be published on the website of Mahapariksha portal. The examination was for 100 marks. After the competitive examination, physical efficiency test was to be conducted. The candidates securing more than 35% marks (for the candidates coming from Backward Class 33%) were to be called for the physical efficiency test in order of merit in proportion to 1:10 having regard to the number of posts (category-wise) to be recruited in the particular district. On the basis of aggregate marks earned by the candidates in the written examination and the physical test, the list was to be prepared in order of merit. The written examination, as well as, physical test were to be

conducted at the respective districts on the dates which may be fixed by the administration of the said districts.

3. In clause No. 11 of the said advertisement, the manner of filling applications was provided in detail. Sub-clause 10 thereof is mainly relevant since the controversy revolves around that. Vide the said clause, two restrictions were imposed. First that no candidate shall fill in 2 applications for one and the same post in the same unit and the other that no candidate for one and the same post shall fill in application in various units. Despite such restrictions some candidates submitted more than one application for one and the same post in different units. Some of such candidates appeared for written examination and physical test in more than one unit. On the basis of the marks received in written examination and physical test, names of some such candidates were included in the provisional merit lists. The names of some candidates were included also in the provisional select list. However, when it was noticed by the respondents that some of the candidates in the select list had filled in multiple applications for one and the same post in different Units, they were disqualified and their candidature was cancelled. Such candidates approached this Tribunal at

Principal Seat, as well as, at Nagpur Bench challenging the cancellation of their selection.

4. Original Application Nos. 144, 145, 146, 167, 203, 300, 301 & 321 all of 2022 (hereinafter referred to as 'Group-I' applications) were filed before the Principal Seat of this Tribunal at Mumbai, whereas O.A. No. 22/2022 and some other OAs were filed before the Nagpur Bench of this Tribunal. Nagpur Bench allowed all those applications and held the applicants in the said OAs entitled to be considered for their selection in accordance with law and on their merit. Accordingly, the directions were given to the respondents. During the course of hearing of Group-I applications by the learned Principal Bench the common order passed by the Division Bench of this Tribunal at Nagpur in O.A. No. 22/2022 with connected OAs on 31.3.2022 was referred and relied upon by the applicants. The Principal Seat of this Tribunal allowed Group-I applications vide common order passed on 11.4.2022. The Principal Bench concurred with Nagpur Bench and directed the respondent authorities to consider the candidature of the applicants in the aforesaid OAs in the further process of selection and order of cancellation of their candidature was quashed and set aside. Some OAs were filed before Aurangabad Bench of the Tribunal

also. Aurangabad Bench though expressed its reservation about eligibility of the candidates submitting more than one application for one and the same post in different Units, eventually did not take contrary view.

5. In view of the orders passed by the Tribunal, the respondent authorities took a policy decision to consider the candidature of all such candidates who were earlier disqualified and whose candidature was cancelled on the ground of submitting more than one application for one and the same post in different units irrespective of the fact whether they have preferred any Original Application before the Tribunal or not. The decision so taken by the respondents brought in jeopardy the selection of candidates who had filled in only one application in one unit. Show-cause notices have been served upon some of the earlier selected candidates who had filled only one application for one post in one unit, why their selection shall not be cancelled. Such candidates have approached the Tribunal by filing O.A. Nos. 775 to 779, 790, 791, 793, 796 and 830 all of 2022 (hereinafter referred to as Group-II applications).

6. When Group-II matters were under consideration, the Principal Bench on 20.12.2022 passed an order and thereby

recalled the common order dated 11.4.2022 passed in Group-I applications and restored those matters for rehearing. On 22.12.2022, the Principal Bench expressed the need of constitution of Larger Bench to hear these matters. The Hon'ble Chairperson of Maharashtra Administrative Tribunal has accordingly constituted this Larger Bench to hear Group-II, as well as, Group-I matters.

Directions by the Hon'ble High Court :-

7. The order dated 20.12.2022 passed by the learned Division Bench of this Tribunal at principal seat at Mumbai in O.A. No. 775/2022 with connected OAs whereby it recalled its judgment and order dated 11.4.2022 passed in O.A. No. 144/2022 with connected OAs, as well as, the common order dated 22.12.2022 passed by the same Division Bench in both sets of OAs (O.A. No. 775/2022 with connected OAs and O.A. No. 144/2022 with connected OAs) directing hearing of these matters by the Larger Bench, were challenged before the Division Bench of the Hon'ble Bombay High Court in Writ Petition Nos. 224 and 226 both of 2023. The Hon'ble High Court decided both these writ petitions by a common judgment delivered on 5.1.2023. The Hon'ble Division Bench has passed the following order :-

“23. We accordingly proceed to pass the following order :-

ORDER

(a) Till the matter is decided by the larger Bench, status quo as on today be maintained.

(b) In view of the fact that the matter is referred to the larger Bench, we request to the Tribunal to hear the matter expeditiously considering the issues involved.

(c) All contentions of respective parties are kept open. 24. The Writ Petitions stand disposed of accordingly. Rule stands discharged.

24. The Writ Petitions stand disposed of accordingly. Rule stands discharged.”

8. In view of the order as aforesaid we have heard arguments in all these O.As. and permitted the learned counsel appearing for the parties to raise all contentions as are pleaded in their respective O.As.

9. Learned counsel Shri Moon has filed M.A. No. 12/2023 in O.A. No. 144/2022. Learned counsel Shri Moon also caused appearance for 4 candidates, who have been benefited because of the order passed by learned Nagpur Bench of the Tribunal in O.A. No. 22/2022 with connected O.As. Said applicants though were initially disqualified on the ground of filling in multiple applications for one and the same post, subsequently were considered for their appointment on the strength of the aforesaid order passed in O.A. No. 22/2022 with connected

O.As. We though did not allow Intervention Application bearing M.A. No.12/2023, we permitted learned counsel Shri Moon to make the submissions on behalf of the aforesaid applicants. We had directed the learned C.P.O. to ensure that the candidates, who got the benefit of the order passed in Group-I applications and have been accordingly given appointments, shall be noticed that the matter is now being heard by a Larger Bench. On 5.1.2023 learned CPO informed that total 125 candidates got the benefit and all of them are duly noticed. It was the contention of learned counsel Shri Moon that he has instructions from such 4 candidates to appear and argue on their behalf. In the circumstances, we permitted learned counsel Shri Moon to make submissions on behalf of the said applicants who stand at par with the applicants in Group-I applications.

Preliminary aspects :-

10. Before advertng to the contentions of the parties the following facts are required to be noted:

In the advertisement dated 30.11.2019 following 3 posts were advertised :-

- (i) District Police Constable Driver,

- (ii) Railway Police Constable Driver,
- (iii) SRPF Armed Police Constable.

The post of District Police Constable Driver was available on the establishment of the Superintendent of Police of the respective districts and the Commissioner of Police of the respective Corporation areas. For regulating the recruitment to the post of Assistant Police Sub Inspector Driver, Police Head constable Driver, Police Naik Driver and Police Constable Driver in the police force under the administrative control of the Home Department, the Government of Maharashtra framed the rules called as “The Maharashtra Assistant Police Sub Inspector Driver, Police Head Constable Driver, Police Naik Driver and Police Constable Driver (Recruitment) Rules, 2019” (hereinafter referred to as the Recruitment Rules of 2019). As defined in the said rules the ‘Department’ means the Home Department of the Government, ‘Director’ means the Director General and Inspector General of Police of Maharashtra State, Mumbai, The ‘Government’ means the Government of Maharashtra, ‘Police force’ means Police force constituted under section 3 of the Maharashtra Police Act of 1951 and the ‘Police Unit’ means office of the Commissioner of Police or the Superintendent of Police.

The advertisement, though, was published for the recruitment of 3 posts mentioned above the disputes, which are the subject matters of the present applications pertain only to the post of District Police Constable Driver. In the circumstances, the facts and figures, which are noted in the present judgment are only in relation to the post of District Police Constable Driver. Similarly, hereinafter whenever we have used the words 'said advertisement' it shall be deemed to be the advertisement dated 30.11.2019.

Contentions of the applicants in their respective O.As.:-

11. Herein below we record in brief the contentions in each of the Original Application :-

1. O.A.NO. 144/2022

The applicant applied in District Raigad in pursuance of the said advertisement. He secured 77 marks in the written examination and 41 marks in the physical test and thus secured total 118 marks. His name figured in the provisional select list published by District Superintendent of Police, Raigad Alibagh against the vacancies meant for OBC reserved category. His name was however deleted from the select list and his selection was cancelled vide

order dated 14.1.2022 passed by the District Superintendent of Police, Raigad on the ground that the applicant was noticed to have applied for the post of Police Constable Driver in Navi Mumbai also along with district Raigad. Aggrieved by the said order the applicant preferred the present Original Application.

2. O.A.NO. 145/2022

These applicants applied in Navi Mumbai unit. They appeared for written examination, as well as, physical test. Applicant No. 1 received total 128 marks, whereas applicant No. 2 secured 133 marks. Names of both the applicants figured in the provisional seniority list published by the Commissioner of Police, Navi Mumbai. While applicants were awaiting for their appointment, vide communication dated 19.1.2022 the Commissioner of Police, Navi Mumbai, informed them that their candidature has been cancelled on the ground that they applied for one and the same post in two units. Applicant No. 1 is stated to have applied in two units, one at Navi Mumbai and another at Thane, whereas applicant No. 2 is stated to have applied in Nashik, as well as, Sangali unit. Aggrieved by

the aforesaid communication the applicants preferred the present Original Application.

3. O.A.NO. 146/2022

These applicants applied in Solapur District. Both the applicants appeared for written examination, as well as, physical test. Both the applicants scored 139 marks. Both the applicants were expecting their names to be included in the select list in the respective category. However, their names were not included. Thereafter on 3.12.2021 applicant No. 1 and on 29.1.2022 applicant No. 2 received the communications from respondent No. 1 i.e. District Superintendent of Police, Solapur informing them that their candidature is cancelled on the ground that they were noticed to have filed application in two units. Applicant No. 1 is stated to have filed two applications one at Commissioner of Police Brihanmumbai and the other at Superintendent of Police, Solapur (Rural). Applicant No. 2 was noticed to have filed one application at Solapur and another at Navi Mumbai. Aggrieved by the said order the applicants preferred the present Original Application.

4. O.A.NO. 167/2022

The applicant applied in 2 Districts, Ratnagiri & Solapur. As contended in the application he appeared for written examination and physical test in Solapur District and secured 132 marks in total. According to the applicant he has secured more marks than respondent no. 4 and was liable to be selected in OBC category. However, respondent no. 2 i.e. the District Superintendent of Police, Solapur vide communication dated 29.1.2022 cancelled his candidature on the ground that he applied for the same post in Ratnagiri unit also in addition to Solapur. Aggrieved by the said communication the applicant preferred the present Original Application.

5. O.A.NO. 203/2022

The applicant applied in two districts i.e. Solapur and Sangali. The applicant appeared for written examination and physical test only at Solapur. He received 132 marks. The applicant belongs to Scheduled Caste Category. When the applicant was awaiting for his appointment, respondent No. 2 vide communication dated 29.10.2021 cancelled his candidature on the ground that he applied for the said post in two units i.e. Solapur and Sangali. Aggrieved by the

aforesaid communication the applicant preferred the present Original Application.

6. O.A.NO. 300/2022

The applicant applied in Mumbai unit (Commissioner of Police, Mumbai). The applicant appeared for written examination and physical test and secured 133 marks. In Sindudurg unit the applicant appeared for written examination but did not appear for physical test. His name accordingly figured in the provisional select list published by the Commissioner of Police, Mumbai. When he was awaiting for his appointment in Navi Mumbai unit, his candidature came to be cancelled on the ground that he applied for the post of Police Constable Driver in two units one at Navi Mumbai and another at Sindudurg. Aggrieved by the aforesaid communication the applicant preferred the present Original Application.

7. O.A.NO. 301/2022

The present application has been jointly filed by 5 applicants. These applicants have applied in Thane Police Commissionerate. Applicant no. 1 secured 138 marks, applicant no. 2 secured 139 marks, applicant no. 3 secured

137 marks, applicant no. 4 secured 125 marks and applicant no. 5 secured 110 marks. The names of the applicants figured in provisional select list. It is the contention of these applicants that they were legitimately expecting their appointments on the basis of the position secured by them in the merit list. However, in the revised select list published on 21.3.2022 their names were found to have been deleted and the applicants were informed vide communication dated 21.3.2022 by respondent no. 1 i.e. the Commissioner of Police, Thane Police Commissionerate that their candidature has been cancelled on the ground that they applied for the same post in more than one unit in breach of the prohibition imposed in the advertisement. Aggrieved by the aforesaid communication the applicants preferred the present Original Application.

8. O.A.NO. 321/2022

The present applicant applied in Mumbai & Thane districts. The applicant appeared for written examination and physical test in Thane district and secured 139 marks in total. Name of the applicant figured in provisional select list published by the Commissioner of Police, Thane in Open Category through EWS Project Affected Persons.

Respondent No. 2 i.e. Additional Director General of Police vide his communication dated NIL (Exhibit 'F') cancelled his candidature on the ground that the applicant applied for one and the same post in two units. Aggrieved by the aforesaid communication the applicant preferred the present Original Application.

9. O.A. NO.775/2022

The present applicant had applied in Latur district. Total 6 posts were to be filled in at Latur, of which 3 were reserved for OBC category. The applicant had applied under the OBC category. The applicant and respondent no.3 both secured equal marks in the written examination and in the physical test. Since the respondent no. 3 was senior in age, his name was included in the provisional select list. The applicant objected the selection of respondent no. 3 and submitted written objection with District Superintendent of Police, Latur seeking disqualification of respondent no.3. The objection was that respondent no.3 had submitted application in other districts also in addition to district of Latur. The objection was sustained and the order of appointment was issued in favour of the applicant on 04.03.2022. On the basis of the

decisions rendered by the learned Nagpur Bench and learned Principal Bench at Mumbai, show cause notice dated 28-07-2022 has been served upon the applicant requiring him to show cause why his services shall not be terminated. Aggrieved by the same, the applicant has approached this Tribunal.

10. O.A. No. 776/2022

Applicant OA had applied in Bhandara unit. Respondent no. 4 had also applied for the said post. The applicant had applied for the said post from VJ-A category. Respondent no. 4 had also applied from the same category. The applicant secured 124 marks out of 150, whereas respondent no. 4 secured 130 marks out of 150. However, since respondent no. 4 had applied also in Jalna District in addition to District Bhandara, the respondents did not consider his candidature and appointment order was issued in favour of the applicant. Based on M.A.T. decisions show-cause notice dated 1.8.2022 has been served upon the applicant. Aggrieved by the said show cause notice the applicant has approached this Tribunal.

11. O.A. No. 777/2022

The applicant had applied in District Bhandara. He received 115 marks out of 150. Respondent no. 4 received 125 marks out of 150. However, the claim of respondent no. 4 was not considered on the ground that he had submitted multiple applications for one and the same post in more than one unit. Though in clause (i) of 'Grounds' the applicant has averred that he was appointed on 4.3.2022. Exhibit "O" filed along with the present OA discloses that the applicant was appointed on 25.4.2022. We, therefore, take the said date of his appointment. The applicant has also been served with the same notice dated 1.8.2022 and against the said notice the applicant has approached this Tribunal.

12. O.A. No. 778/2022

The applicant had applied in Bhandara District. The applicant appeared in the written test followed by the physical test. He was qualified in written, as well as, physical test. He secured 126 marks out of 150. Respondent no. 4, who had also applied for the same post secured 128 marks out of 150. After the merit list was published the applicant vide his representation dated 17.1.2022 raised an objection in respect of respondent no.

4 on the ground that he had applied for the same post in more than one District and his candidature was, therefore, liable to be cancelled. On the basis of M.A.T. decisions and on instructions of Additional Director General of Police (Training and Special Unit), the Superintendent of Police, Bhandara (respondent no. 3 in the present O.A.) issued show cause notice dated 1.8.2022 to the applicant calling upon him to show cause why his services shall not be terminated. Aggrieved by the said show cause notice the applicant has approached this Tribunal by filing the present Original Application.

13. O.A. NO. 779/2022

The applicant had applied in the district of Bhandara. He passed the written examination and the physical test. His name was included in the merit list. On 25-04-2022 along with 33 other candidates, the applicant was appointed on the post of Police Constable Driver. Respondent no.4 also had applied for the said post, however, since he had applied in more than two units for the said post, his candidature was not considered for appointment. Subsequently, on the basis of the decisions rendered by the M.A.T., merit list was revised and the candidates who had appeared in more than

one unit were also considered for their appointment. In the circumstances, a show cause notice came to be issued against the present applicant on 01-08-2022 by respondent no.1 requiring him to show cause why his services should not be terminated. Aggrieved by the same, applicant preferred the said application.

14. & 15. O.A. NOS. 791 AND 790 BOTH OF 2022

i) Applicants in O.A. No. 791/2022 had applied in Navi Mumbai, whereas the applicants in O.A. No. 790/2022 had applied in the district of Thane. The applicants successfully passed the written examination, as well as, physical efficiency test and their names were included in the final selection list of the candidates published on 29.3.2022. The candidates who had submitted application for one and the same post in more than one unit were initially not considered for their selection by the respondents. After decision of M.A.T. however, they were considered.

ii) According to these applicants that the applicants in whose favour the Tribunal has passed the orders were guilty of adopting fraudulent practices, have violated the terms and conditions, as well as, undertaking given by

them and they were estopped from raising any objection to the condition No. 11.10 in the advertisement after participating in the selection process without raising any objection to the said condition. It is also contended that the Tribunal does not possess any right to grant relaxation in the condition imposed in the advertisement. It is the grievance of these applicants that because of the orders passed by this Tribunal the honest applicants, who abide by the condition imposed in the advertisement submitted only one application for one post in one unit are put at disadvantageous position and great prejudice has been caused to them as the candidates who blatantly committed breach of their own undertaking are likely to supersede their claims.

16. O.A. NO.793/2022

The applicant had applied in Ratnagiri district from the Ex-Serviceman category. Applicant secured 94 marks out of 150 in written examination and the physical test. Respondent no.4 also had applied for the said post in Ratnagiri district from the Ex-Serviceman category. He had secured 106 marks out of 150. Though the applicant and respondent no.4 both had applied for the post reserved for

Ex-Serviceman and though respondent no.4 received more marks than the applicant, since the respondent no.4 had submitted applications for one and the same post in more than one unit, his candidature was not considered and the name of the applicant was included in list of the selected candidates and the applicant came to be appointed on 20.01.2022. The respondent no. 4, however, did not challenge his disqualification. After the decisions of M.A.T. the Director General of Police issued instructions for considering all those candidates who were disqualified on the ground of submitting more than one applications for one and the same post in different units. Based upon the said instructions, respondent no.1 issued show cause notice to the applicant on 28-07-2022 requiring the applicant to show cause why his services shall not be terminated. Aggrieved by the same, applicant has approached this Tribunal.

17. O.A.NO.796/2022

Applicant had applied in Ratnagiri District. Respondent no.4 also had applied from the said district. However, he was disqualified by respondent no.3 i.e. Superintendent of Police, Ratnagiri on the ground that he had applied for the

said post in more than one unit. Applicant succeeded in securing the place in in merit list and was appointed on the post of Police Constable Driver vide order dated 20.01.2022. Consequently, the applicant came to be served with the notice dated 02-08-2022 under the signature of respondent no.3 requiring him to show cause why his services should not be terminated. Aggrieved by the same, he has approached the Tribunal by filing the present application.

18. O.A. NO. 830/2022

The applicants had applied in the respective districts. Applicants succeeded in written examination, as well as, physical test and their names were included in the merit list. It is the grievance of these applicants that because of the orders passed by M.A.T. the chances of the applicants to get selected have been prejudicially affected. The applicants have prayed for recall of the orders passed by the Tribunal and have further prayed for direction against the respondent authorities to prepare the list of selected candidates afresh in order of merit only of such candidates who abide by the condition imposed in the advertisement did apply for one post in only one unit.

Stand taken by the Respondent State:-

12. The applications in Group-I are resisted by the respondents i.e. the State Authorities. In the affidavit in reply filed on behalf of the respondents it is contended that as provided in rule 11 of the Recruitment Rules of 2019 the recruitment process was determined by the State which is reflected in the advertisement dated 30.11.2019. It is further contended that the respondents received several complaints that some candidates have submitted more than one application for one and the same post in various units. On such complaints the scrutiny was conducted by the respondents wherein it was noticed that 2897 candidates had submitted applications in more than one unit. The respondent authorities, therefore, issued the instructions to the concerned units to cancel the candidature of such candidates. The respondents have further raised an objection that the candidates, who had consciously taken part in the process of selection cannot thereafter turnaround and question the process of selection and its outcome. It is further contended that after publication of the advertisement for the recruitment of 'Police Constables' it was realized that many candidates had applied for more than one unit. In the circumstances, to avoid duplicacy and to fill all

vacancies the impugned prohibition was imposed for the recruitment of 'Police Constable Driver'. It is contended that if one candidate qualifies for more than one place and later on withdraws from one place, it creates delay in filling the said post. It is denied that there was any confusion in respect of clause 11(B) of the advertisement. On all the aforesaid grounds the applications were opposed by the respondent State.

13. Insofar as the applications in Group-II are concerned the respondent State has come out with the defence that the impugned actions were based on the decision rendered by the Maharashtra Administrative Tribunal in various matters. The State has raised an objection that some of the applications are premature since no final action has been taken by the State though show cause notices are issued to the concerned applicants.

Arguments of the learned counsel appearing for the applicants in Group-I applications:-

14. Learned counsel appearing for the applicants in Group-I applications have objected to and assailed the prohibition so imposed to be totally arbitrary, irrational, unjust and oppressive. It has also been argued that there is no logic in making such prohibition in absence of any laudable object to be

achieved and without any intelligible differentia behind it. It has also been argued that when the applicants do possess the right to secure employment or appointment to any office under the State and in that matter there shall be equality of opportunity for all citizens and when the applicants also possess the right to seek the opportunity of appointment in any part of the State, prohibiting them from filling in applications for the post of Police Constable Driver in more than one district/unit is apparently violative of the Constitutional guarantee provided to the citizens under Articles 16 & 19 of the Constitution of India.

15. It has also been argued that to impose such prohibition for the recruitment of Police Constable Drivers, which was not there in the recruitment process simultaneously conducted for filling in the posts of Police Constables, amounts to discrimination. It has also been argued that in the recruitment of Police Constables carried out in the year 2014 also some of the candidates were disqualified and their appointments were cancelled on the ground that they had filled in applications for one and the same post in more than one unit though it was impermissible; however, the government ultimately absorbed all such candidates in service. Letter dated 20.04.2016 has been

placed on record to demonstrate that the said candidates were absorbed in Police services. It is the contention of these applicants that the applicants also deserve the same treatment or else it would amount to discrimination. According to these applicants the prohibition so imposed is violative of Article 14 of the Constitution of India.

16. It has also been argued that if restriction so imposed is continued and practiced, the very object of open market competition for any public post with an object to secure best talent would lose its significance and it may not be possible to get the best talent in the age of cut-throat competition. It has also been contended that the prohibition so imposed is contrary to the provisions under the Maharashtra Police Act and the Recruitment Rules of 2019. According to the learned counsel the circulars dated 25.1.2022, as well as, 27.12.2021 lay down some different proposition. It has been contended that clarification provided vide circular dated 25.1.2022 has in fact made the alleged condition incorporated in clause 11.10 of the advertisement redundant, which otherwise is also ambiguous and if the advertisement dated 30.11.2019 is read as a whole it leads to only inference that the candidate can very well file two applications for one post.

Argument by learned Chief Presenting Officer:-

17. In the affidavit in reply filed on behalf of the State Authorities they have denied the objection as has been raised about the constitutionality of the prohibition so imposed. The respondents have given justification for introducing the second prohibition in the advertisement dated 30.11.2019, which was not there in the advertisement dated 3.9.2019 in respect of recruitment of Police Constables. It has also been contended that imposing of such prohibition is within the right and authority of the State and it no way violates the rights guaranteed under articles 14, 16 or 19 of the Constitution of India. Ms. Swati Manchekar, learned Chief Presenting Officer in her argument elaborately explained why the respondents were required to impose the aforesaid condition in the recruitment process of Police Constable Drivers.

18. The learned CPO pointed out that the advertisement dated 3.9.2019 was issued for recruitment of Police Constables. Total 3450 posts were to be filled in of Police Constables all over the State and the vacancy position was displayed on the website of the Home Department, as well as, on the District websites of the respective Districts. In the said advertisement no such condition existed that candidates shall not apply for one and

the same post in various units. For said 3450 posts the respondents received 8,81,428 applications. The learned CPO further submitted that it was noticed by the respondent authorities that large number of candidates had submitted applications for various districts and the State administration was tasked to carry out scrutiny of those applications, to make arrangements for their written examination, as well as, physical test, knowing well that the administration will be doing a futile exercise of selection work in all the districts wherever the candidate has filled in an application as the said candidate after all if selected could have appointed only in one district. The learned C.P.O. further submitted that after having faced and realized the aforesaid administrative difficulties, the respondents took a conscious decision to prohibit the candidate applying for the post of District Police Constable Driver from filling in applications for the said post in more than one district. The learned CPO submitted that total 1847 posts of Police Constable Drivers were to be filled in all over the State and the administration received total 1,17,055 applications. The learned CPO submitted that only 2897 candidates were noticed to have applied in more than one district. The learned CPO submitted that the administration thus could achieve the object

kept behind imposing the aforesaid prohibition. Learned C.P.O. has further argued that there is nothing illegal or unconstitutional in imposing such restriction and it was well within the authority of the respondents to put such prohibition.

Arguments by the learned counsel appearing for the applicants in Group-II applications:-

19. On behalf of the applicants in Group-II applications it has been argued that the applicants in Group-I applications were estopped from challenging the Constitutionality of the prohibition allegedly imposed in clause 11.10 of the advertisement dated 30.11.2019 after participating in the selection process. It has also been argued that without impleading the applicants in Group-II applications or similar other candidates, who were selected and likely to be selected, despite the fact that they had secured less marks than the candidates who had applied in two districts were the necessary parties and without impleading them the Tribunal could not have entertained the applications filed by the applicants in Group-II applications. It has also been argued that the applicants in Group-II applications and similarly situated candidates did not get the opportunity to contest the applications filed by the applicants in Group-II applications and

thus, could not put their point of view which was legally more sound before the Tribunal as they were not impleaded as party respondents to the said applications. It has also been argued that the Tribunal does not possess any power or authority to relax the terms and conditions incorporated in the advertisement on the basis of which the recruitment process was conducted.

20. Insofar as Original Application Nos. 775 to 779 all of 2022 are connected it has been argued that the applicants in said applications were duly appointed after having successfully faced the written examination, as well as, the physical test before any order was passed by Nagpur Bench of this Tribunal or the Principal Bench at Mumbai. It has also been submitted that the services of these applicants cannot be terminated on the basis of the decision rendered by the Nagpur Bench of this Tribunal or by Principal Bench of this Tribunal at Mumbai in Group-I applications wherein they were not party. It has also been argued that no one has challenged the order of appointment issued in favour of these applicants till today. It has also been contended that no one has come forward claiming the appointment on the posts of these applicants on the basis of the decision rendered by this Tribunal in Group-I applications. It

has also been contended that the Tribunal has also nowhere directed the respondents to terminate the services of the candidates who are already appointed even before filing of the applications in Group-I or before rendering of any decisions in the said matters.

21. On behalf of the applicants in O.A. No. 793 of 2022 it has been contended that the candidates who have submitted multiple applications for one and the same post in multiple units have committed the breach of undertaking given by them that they have not filled in more than one application for one post. It has been argued on behalf of these applicants that the condition imposed nowhere violates any of the fundamental rights enshrined under Articles 14, 16 or 19 of the Constitution of India. It has also been argued that the applicants who have submitted more than one application for one and the same post in different units have practiced fraud on the respondents by submitting multiple applications with different email addresses and mobile numbers. It has also been argued that the applicants in Group-I applications, who have blatantly violated the conditions laid down in the advertisement dated 30.11.2019, cannot be extended any benefit as prayed by them or else it would cause great prejudice or injustice to meritorious,

diligent, honest and law abiding applicants. The applicants on the aforesaid grounds have prayed for rejection of applications of the applicants in Group-I applications.

Argument by learned Counsel Shri Moon:-

22. Learned counsel Shri Moon argued that in first paragraph of clause 11.10 of the advertisement dated 30.11.2019 when the candidates are granted liberty to submit application forms for 3 posts advertised in the separate units, in paragraph 3 of the said clause 11.10 absolutely contradictory condition is introduced, which goes against the contents of paragraphs 1 & 2 of the same clause. Learned counsel Shri Moon has further argued that the learned Nagpur Bench of this Tribunal in its judgment and order passed in O.A. No. 22/2022 with others has rightly recorded that clause 11.10 contains the contradictory conditions. Learned counsel invited our attention to the observations made by learned Nagpur Bench in the order passed by it in the aforesaid matters and more particularly in paragraph nos. 12 13 and 17 thereof.

About citations: -

23. The learned counsel for the parties, in their respective arguments, have referred to and relied upon certain judgments

in support of their contentions. We will consider and discuss the said judgments at the appropriate stage.

Issues for consideration: -

24. After having heard the arguments of the learned counsel appearing for the applicants in Group-I, as well as, Group-II applications, the learned Chief Presenting Officer appearing for the State Authorities and the learned counsel Shri Moon and after having perused the documents filed on record, broadly the following issues arise for our determination :-

- (a) Restriction imposed vide clause 11.10 in the advertisement dated 30.11.2019, thereby prohibiting the candidates from making application for one and the same post in more than one Unit, whether can be held violative of the fundamental rights granted under Articles 14, 16 and 19 of the Constitution ?
- (b) Challenge to the recruitment process and more particularly to clause 11.10 in the advertisement dated 30.11.2019 by the applicants in Group-I applications after having themselves taken part in it, whether maintainable?
- (c) whether Group-I applications suffer from vice of non-joinder of necessary parties ?
- (d) whether show-cause notices issued to the applicants in Group-II applications are sustainable ?
- (e) what order ?

Center Point of controversy:-

25. Clause 11.10 of advertisement dated 30.11.2019 and more particularly, the prohibition imposed vide the said clause thereby prohibiting the candidates from making applications for the post of District Police Constable Driver in more than one unit is the center point of the controversy. Clause 11.10 reads as under :-

“११.१०) उमेदवारास (१) जिल्हा पोलीस दलातील पोलीस आयुक्त / पोलीस अधीक्षक यांच्या आस्थापनेवरील पोलीस शिपाई चालक, (२) लोहमार्ग पोलीस दलातील पोलीस शिपाई चालक व (३) राज्य राखीव पोलीस बलातील सशस्त्र पोलीस शिपाई पदासाठी एक अशा एकूण पदांसाठी तीन आवेदन अर्ज सादर करता येतील (महिला उमेदवारांना राज्य राखीव पोलीस बलातील सशस्त्र पोलीस शिपाई पदासाठी आवेदन अर्ज सादर करता येणार नाही.)

एकाच पोलीस घटकातील एकाच पदासाठी एकापेक्षा जास्त अर्ज सादर करता येणार नाहीत. (उदाहरणार्थ :- पोलीस आयुक्त, बृहन्मुंबई यांच्या आस्थापनेवरील पोलीस शिपाई चालक पदासाठी एकापेक्षा जास्त अर्ज भरता येणार नाहीत किंवा राज्य राखीव पोलीस बलातील एकाच गटात सशस्त्र पोलीस शिपाई पदासाठी एकापेक्षा जास्त अर्ज भरता येणार नाहीत). जर एका उमेदवाराने एकाच पोलीस घटकातील एकाच पदासाठी एकापेक्षा अधिक अर्ज केलेले आहेत असे आढळून आले तर अशा उमेदवारांची उमेदवारी रद्द केली जाईल.

एकाच पदासाठी विविध पोलीस घटकांत आवेदन अर्ज सादर करता येणार नाहीत.”

26. As we have noted earlier according to the applicants in Group-I applications the prohibition imposed is totally arbitrary, irrational, unjust, oppressive and hence unconstitutional. It has been argued that when the applicants possess the right to secure employment to any office under the State and in that matter there shall be equality of opportunity for all the citizens and such opportunity can be explored in any part of the State,

prohibiting them from filling in applications for the post of Police Constable Driver in more than one unit amounts to violation of their fundamental rights under articles 14, 16 & 19 of the Constitution of India.

27. Prohibition so imposed is alleged to be violative of fundamental rights on the grounds; first, that there was no such prohibition in the recruitment process carried out for filling in posts of Police Constables in the State. Second that the respondents have not applied the same criteria to the applicants, which was applied for the similarly situated candidates in the Police Recruitment 2014. The competence of the respondents in imposing such prohibition is also challenged. It has also been argued that the prohibition so imposed is contrary to the provisions of the Maharashtra Police Act, 1951 and the Recruitment Rules of 2019. Absence of consequential provision in the event of breach of the prohibition so imposed is also the ground pressed in service for setting aside the impugned order.

28. All above objections are denied by the State. According to the State Authorities the prohibition so imposed is constitutionally valid. It has been argued that when the

recruitments are to be made all over the State and almost in every district of the State, the candidates can be prohibited from applying for one and same post in more than one unit. It has also been argued that to decide the process of recruitment is the task which is within the domain of the State and accordingly the process has been decided, which is reflected in the advertisement. It has also been argued that the prohibition so imposed is no way contravenes any of the provision under the Maharashtra Police Act or the Recruitment Rules of 2019. Allegation of discrimination has also been strongly resisted by the State. According to State Authorities the applicants have been rightly disqualified and their candidature has been rightly cancelled.

To determine the Recruitment Proess:-

29. It is not in dispute that the services of the Police Constable Driver are governed by the provisions under Recruitment Rules of 2019 framed under Maharashtra Police Act, 1951. In the Recruitment Rules, recruitment process has not been prescribed. Vide rule 11 of the said rules the task of determining the process for recruitment is assigned to the State

Government and/or Director General of Police of the State.

Said rule 11 reads thus: -

“11. Recruitment to the post of Police Constable Driver shall be done as per procedure decided by the Government or the Director General, from time to time.”

30. In the affidavit in reply of the respondents, as well as, in the arguments of learned C.P.O. the aforesaid rule was referred. It is evident that the aforesaid rule empowers the State to determine the process for recruitment. Though the applicants under Group-I applications have argued that the prohibition imposed is contrary to the provisions of Maharashtra Police Act and the Recruitment Rules of 2019, no provision under Maharashtra Police Act or Recruitment Rules of 2019 is brought to our notice which according to them is contrary to any provision under the Act or the Recruitment Rules of 2019. The objection in that regard has to be, therefore, rejected. On perusal of rule 11 of the Recruitment Rules of 2019, there shall not be any hitch in holding that process of recruitment has to be settled by the State Government or the Director General of Police. The State has accordingly determined the Recruitment Process. The objection as about the competence of the State to

decide the recruitment process, also has to be, therefore, turned down.

31. By imposing prohibition, which was not there in the recruitment of Police Constables and by not applying same criteria to the present applicants which was applied for the similarly situated candidates in the Police Recruitment of 2014, whether the respondents have adopted discriminative practice and have thus violated the rights guaranteed under Articles 14 & 16 of the Constitution of India is the next question for our consideration.

Two advertisements : no nexus with each other -

32. The advertisement dated 3.9.2019 was pertaining to the recruitment for the post of Police Constables which was conducted in accordance with the Maharashtra Police Constables (Recruitment) Rules, 2011 and the amendments carried out therein by the Government time to time. As against it, the recruitment of Police Constable Drivers has been conducted in accordance with Recruitment Rules of 2019. It is thus, evident that both the recruitments are for different posts and under different Rules. Therefore, there cannot be an insistence that no change could have been made in the terms

and conditions of the advertisement meant for the recruitment of Police Constable Driver.

33. The terms and conditions prescribed in the advertisement dated 3.9.2019, also were restricted to that recruitment.

34. The advertisement dated 30.11.2019 was an independent advertisement for the recruitment to the post of Police Constable Driver and was not having any nexus with the advertisement dated 3.9.2019. It appears that some confusion has been created in this regard, as in one communication *inter se* the respondents, concerned authority has referred the recruitment of Police Constable as Phase-I and recruitment to the post of Police Constable Driver as Phase-II. In fact, the recruitment of Police Constable was having no nexus with the subsequent recruitment process carried out for the recruitment of Police Constable Drivers. It is not the case that the Police Constable Drivers were to be selected from the candidates selected as Police Constable in the selection process carried out vide advertisement dated 3.9.2019. It is further not the case that the candidates selected as Police Constable in the earlier selection process were to be given some weightage in the appointments of Police Constable Drivers. We reiterate that two

separate and independent recruitment processes were carried out. There were no two Phases but two separate independent selection process. Mentioning of the first recruitment process as Phase-I and second recruitment process as Phase-II in the inter se communication of the respondents was a misnomer.

35. The common judgment and order passed in O.A. No. 22/2022 with others by learned Nagpur Bench of this Tribunal has been cited before us. From the observations made by the said Bench it is evident that it also has proceeded on a wrong footing that the recruitment of Police Constable Drivers was second phase of the same recruitment when in fact it was having no nexus with the recruitment of the Police Constables. Learned Nagpur Bench presumed that some relaxation of making application for one and the same post in multiple units was extended to the candidates who participated in the first Phase i.e. in the recruitment process carried for recruitment of Police Constables. In fact, in the advertisement dated 3.9.2019 no such prohibition was imposed that for one and the same post the candidate shall not file multiple applications in different units and that was the reason that no candidate was disqualified in the said recruitment process on the ground that he had filed more than one applications for one and the same

post in multiple units. It was not the case that such prohibition was initially imposed but was subsequently relaxed. In the recruitment process of Police Constable Driver, however, a specific provision was incorporated prohibiting the applicants from applying for one and the same post in multiple units. Learned Nagpur Bench went wrong in holding that by imposing new condition thereby prohibiting the candidates from making applications for one an same post in more than one Unit, which was not there in advertisement published on 3.9.2019, discriminatory practice was adopted by the Government. In the circumstances, the conclusion recorded by the learned Nagpur Bench that not to extend the relaxation to the candidates applying for the post of Police Constable Drivers, which was extended to the candidates applying for the post of Police Constables amounted to discrimination does not sound legal.

Process of Recruitment and Terms & Conditions of Recruitment Amenable to Suitable Changes.

36. The terms and conditions of the appointment and process of recruitment can never be static. If the Government now intends to conduct fresh recruitment for the same post of Police Constable, it is not precluded from making suitable changes, modifications in the procedure prescribed or the terms and

conditions settled earlier. It is well within the power and authority of the Government to effect the necessary changes in the said terms and conditions commensurating to the present circumstances. If such changes are brought it would not be open for the candidates participating in the said Recruitment Process to say that the conditions so settled are violative of Article 14 of the Constitution on the ground that some of the conditions incorporated in the subsequent recruitment process were not there in the earlier recruitment process for the same post, so long as said terms and conditions withstand test of constitutionality and are not in any way contrary to the concerned statute or rules. The Government has every authority to lay down such conditions and the candidates applying for the said post would be under an obligation to scrupulously follow the said terms.

37. As the circumstances and requirements change, the process of recruitment also changes and if such change is effected, the candidate participating in the current selection process cannot claim that his selection be made under the erstwhile terms and conditions or else it would amount to discrimination between him and the candidates who participated in the earlier selection process on the basis of the

terms and conditions prevailing at that time. As held by the Hon'ble Supreme Court in the case of **State of Mysore Vs. P. Narasinga Rao, AIR 1968 SC 349**, *Articles 14 & 16 of the Constitution do not preclude the Government from laying down criterias for the post in question in the circumstances then prevailing.*

38. The Hon'ble Apex Court in the case of **Ramesh Prasad Singh Vs. State of Bihar and Others, AIR 1978 SC 327** has ruled that,

“the guarantee of equality does not imply that the same rules should be made applicable to all persons in spite of differences in their circumstances and conditions”.

39. As has been submitted on behalf of the State the prohibition was consciously imposed in the advertisement dated 30.11.2019, which was not there in the advertisement dated 3.9.2019 having faced the difficulties in the earlier recruitment process of receiving multiple applications for one and the same post. According to learned C.P.O., such change was permissible and it was the policy decision of the Government.

40 The issue of permissibility of change in policy decision in the matter of recruitment fell for consideration of the Hon'ble

Apex Court in the case of **LT. CDR. M. Ramesh V/s. Union of India & Ors. [(2018) 16 SCC 195]**, In the said matter, on recommendation of the committee headed by a retired IPS Officer, in addition to the normal modes of recruitment i.e. direct recruitment to IPS through the Annual Civil Services Examinations and promotion from the State Police Services, a third method of Limited Competitive Examination (LCE) was introduced by the Central Government sometime in the year 2012, and accordingly, changes were made in Indian Police Services (Recruitment) Rules, 1954. The said amendments to the rules were challenged in number of petitions before the various High Courts. Since petitions were filed in various High Court, all such cases which were 17 in number were sought to be transferred at one place. When the said transfer petitions were pending for consideration before the Hon'ble Apex Court, the Central Government filed an affidavit with the contentions that after considering all aspects referred to in the affidavit, the Union of India had taken a decision to scrap LCE held in the year 2012. The candidates who had appeared in the LCE opposed the said decision taken by the Union of India. In view of that the Hon'ble Apex Court heard arguments only on the issue whether the decision of the Central Government to scrap

the LCE held in 2012 after conducting written test and interview was legal or not. After having heard the learned Counsel appearing for the parties, the Hon'ble Apex Court upheld the decision taken by the Central Government. The Hon'ble Apex Court held that,

“the law is well settled that the Legislature and the Executive can change any policy for good reasons. These good reasons must be such which are not arbitrary, which are not mala fide and the decision has been taken in the public interest. If the decision to change the policy is arbitrary or capricious then it may be struck down.”

Applying the said criteria, Hon'ble Apex Court held that,

“when we examine the decision taken by the Central Government in a holistic manner, we have no doubt that the decision to scrap the LCE recruitment has been taken in the larger public interest. The decision is definitely not mala fide. It is not actuated by extraneous reasons. It cannot be said that the decision is arbitrary.”

41. In the case of **State of Orissa V/s. Bhikari Charan Khuntia [(2003) 10 SCC 144]**, the Hon'ble Apex Court has held that policy decision of the Government regarding recruitment is not amenable to judicial review unless the same is arbitrary. In the case of **Union of India V/s. Pushpa Rani & Ors. [(2008) 9 SCC 242]**, the Hon'ble Apex Court has ruled that the courts should not lay down modes and procedures for recruitment.

42. In the instant matters, to prohibit the candidates from making applications for one and the same post in various units, was a policy decision consciously taken by the Government which was based on the genuine practical difficulties faced by the respondents in the earlier recruitment process.

Confusion ? ambiguity ?

43. It is sought to be contended on behalf of the applicants in Group-I applications that there was lot of confusion in respect of interpretation of clause 11.10 of the advertisement dated 30.11.2019. The reference is made to the communications dated 12.8.2021, 27.12.2021 & 25.1.2022. The condition raised is liable to be rejected at the threshold for the reason that the communications which are referred to are the internal communications between respondent authorities. On the basis of such communications between the authorities there was no likelihood of the applicants getting confused. Moreover, the correspondence which has been referred to is of a later period and if this is the contention of the applicants that there was some confusion as about interpretation of clause 11.10 of the advertisement or the restriction imposed therein, the best course open for them was to get the said confusion clarified

from the authorities, who were named in the advertisement itself. Clause 24 of the said advertisement specifically provides that in case the candidates find any difficulty then can contact the officers concerned on the helpline numbers of which were also provided in the said column, none of the applicant has availed the said remedy. We see no substance in the contentions so raised.

44. The learned Nagpur Bench in its decision rendered on 31.3.2022 with connected O.As. has also observed that clause 11.10 read as whole creates confusion. In paragraphs 12 & 13 of the said order such observations are made by the learned Bench. The learned counsel Shri Moon in his arguments has read out those observations. Those observations read thus :-

“12. For the sake of clarity we sub-divided Clause 11.10 in the advertisement dated 30.11.2019 in four parts. Part 1 refers to four distinct units and three distinct posts. This para enables a candidate to make as many as three applications – one each for a post. Part 2 creates the first prohibition which places an embargo on a candidate making more than one application for a post in a unit. Part 3 is an illustration which explains the first prohibition (which is in part 2). Part 4 creates an additional, second prohibition stating that for the same post a candidate could not make an application in more than one unit. It may be reiterated that this additional, second prohibition was not there in the first phase of recruitment which commenced with the publication of advertisement dated 03.09.2019.

13. Question which goes the root of the matters is whether Clause 11.10 of the advertisement dated 30.11.2019 is unambiguous to put the candidates applying in response to

the same on guard as to what was permitted and what was prohibited. As mentioned earlier, part 1 of Clause 11.10 enables a candidate to submit three applications for three distinct, separate posts in 4 units which include two posts of Police Constable Driver – 1 each on the establishment of Police Commissioner/ Police Superintendent, and Railway Police. The third post is of Armed Police Constable under S.R.P.F.. When parts 1 & 4 of Clause 11.10 are juxtaposed, it becomes apparent that these two parts are irreconcilable. Clause 11.10 read as a whole, creates confusion. By extending benefit of relaxation to the candidates who had participated in the first phase, the respondent department tacitly conceded that Clause 11.10 of the advertisement dated 03.11.2019 certainly left something to be desired in terms of clarity and there was a loophole which needed to be plugged. This was sought to be remedied by incorporating the second prohibition in Clause 11.10. As it transpires, mere addition of the second prohibition in Clause 11.10 was not sufficient to dispel confusion. To make the change workable and fruitful part 1 of the Clause was also required to be amended so that these two parts could be reconciled with each other and could stand together. It may be stated at the cost of repetition that part 1 of Clause 11.10 enables a candidate to apply for more than one post under different units and part 4 prohibits a candidate from applying for the same post in more than one unit.”

Paragraph 17 of the said judgment we have already reproduced hereinabove.

45. The observations made by learned Nagpur Bench reflected in paragraphs 12, 13 & 17 of its judgment and finding eventually recorded by the said Bench are difficult to be accepted. We have closely scrutinized clause 11.10 in the advertisement. According to us, there is no ambiguity in wording the said clause. The said clause permits a candidate to submit applications for each of the advertised post i.e. total 3 applications, one for each of the advertised post. What is

prohibited by the aforesaid clause is that in the same Unit the candidate shall not file more than one application for one and the same post. Thus, if any candidate has applied for the post of District Police Constable Driver in Ahmednagar Unit, he cannot file a second application for the same post in the same Unit i.e. in Ahmednagar Unit. The said candidate is not, however, precluded from filling in application for the post of Railway Police Constable Driver in Pune Unit and one more application for the post of SRPF Armed Police Constable in Aurangabad Unit. Thus, the number of applications filed by him will not exceed 3. An another candidate fills in total 4 applications, one for the post of Police Constable Driver in Ahmednagar Unit, second for the post of Railway Police Constable Driver at Pune, third for the post of SRPF Armed Police Constable at Aurangabad and fourth at Solapur Unit for the post of District Police Constable Driver. This candidate will be disqualified and his candidature will be cancelled insofar as his application for the post of District Police Constable Driver is concerned as because he has filled in 2 applications for one and the same post in more than one Unit i.e. first in Ahmednagar Unit and second in Solapur Unit, however, he can very well compete for the post of Railway Police Constable driver, as well

as, SRPF Armed Police Constable since for the said post he has submitted only one application for one Unit. The aforesaid is the import of clause 11.10 and we reiterate that there is absolutely no confusion in wording the aforesaid clause and consequently there shall not be any confusion in understanding the import of the said clause.

46. In the advertisement dated 3.9.2019 there was only one prohibition that the candidate shall not fill more than one application for one and the same post in same Police Unit. As there was no such prohibition in the said advertisement that 'for one and the same post the applicant shall not fill in application in more than one Unit', large number of candidates are reported to have filled in applications for one and the same post in several Units multiplying the total number of applications. That was the reason that conscious decision was taken by the respondent authorities to put a second prohibition prohibiting the candidates from making applications for one and the same post in more than one Unit.

47. Moreover, it is significant to note that the candidates, who were to apply for the advertised posts are noticed to have correctly understood the aforesaid clause. As has come on

record out of total 1,17,000 applications received for the post of Police Constable Drivers, only 2897 persons were noticed to have filled in more than one application. Thus, more than 1,00,000 candidates did not have any confusion as about the prohibition imposed in clause 11.10 or in understanding the said clause as a whole. There was no confusion as about the interpretation of the aforesaid clause even in the minds of the candidates, who made applications for one and the same post in several Units. The documents on record show that the candidates, who made applications for one and the same post in more than one Unit have while filling in subsequent application have created different email ids for them and have also given different mobile numbers. In some of the matters the candidates concerned have spelled their own name and the names of their parents differently than in the first application. The facts as foresaid lead to the only inference that the consequences of prohibition imposed vide clause 11.10 of the advertisement were correctly understood by the said candidates. For the reasons stated as above we see no substance in the objection so raised and the arguments so advanced alleging that there was ambiguity in couching clause 11.10 of the advertisement or that the provisions therein are irreconcilable.

Recruitment of 2014:

48. It has also been argued that in the recruitment of Police Constables carried out in the year 2014 also some of the candidates were disqualified and their appointments were cancelled on the ground that they had filled in applications for one and the same post in more than one unit though it was impermissible, however, the government ultimately absorbed all such candidates in service. Letter dated 20.4.2016 has been placed on record to demonstrate that the said candidates were absorbed in Police services. It is the contention of these applicants that they also deserve the same treatment or else it would amount to discrimination. According to these applicants the prohibition so imposed is violative of Article 14 of the Constitution.

49. Smt. Manchekar, learned CPO did not deny that in the recruitment done in the year 2014 such course was adopted. Letter dated 20.4.2016 in that regard has also not been denied or disputed by the learned CPO. Learned CPO, however, clarified that the candidates who were disqualified and whose appointments were cancelled on the ground that they had applied for the said post in more than one unit were absorbed in

the Police services without disturbing the appointments already made of the candidates who had submitted only one application.

Letter dated 20.04.2016:

50. The State authorities have not denied that in the Police Recruitment of 2014 though the candidates, who had submitted more than one application for one and the same post in different unit were earlier disqualified, subsequently the Government took a decision to absorb such candidates also. The letter dated 20.4.2016 reflects the decision so taken by the Government. The question is, whether on the basis of the decision taken by the State Government at that time, the applicants in Group-I applications or the candidates similarly situated can make a grievance and allege discrimination under Article 14 of the Constitution. From the contents of the letter dated 20.4.2016 it can be discerned that in the Police Recruitment 2014 also a prohibition was imposed that the candidates shall not apply for one and the same post in more than one unit and who made applications for one and the same post in different units, were disqualified on the said ground.

51. It is not the case of the applicants in Group-I applications that the order of disqualification passed in the

Police Recruitment – 2014 was challenged by the candidates concerned before the Tribunal or Hon'ble High Court or any other authority under law and the disqualification so ordered was held illegal or unsustainable by any such authority and in pursuance of the said decision the State Government resolved to absorb all such candidates. From the contents of the letter dated 20.4.2016 it may be gathered that the candidates who were disqualified on the aforesaid ground in the Police Recruitment – 2014 had submitted representations to the Government and have requested for their absorption. It appears that the Government positively considered the said representations and took a decision to absorb all such candidates. The decision so taken by the Government, however, does not mean that the disqualification ordered of the said candidates on the ground that they had applied for one and the same post in more than one unit was declared illegal or unconstitutional. In the circumstances, it does not appear to us that the applicants in Group-I applications or similarly situated candidates can claim similar orders, in their favour on principle of equality before law which are not sanctioned by law.

Principle of equality before law:

52. In the case of **Gursharan Singh & Ors. Vs. New Delhi Municipal Committee & Ors.**, [1996 SCC (2) 459], similar issue was

for consideration. It was the contention of the appellants before the Hon'ble Supreme Court that the concession which was given to the Panchkuian Road stall Holders was liable to be given to them also by the New Delhi Municipal Corporation (NDMC). It was alleged that NDMC had adopted discriminatory practice in the matter of appellants. Hon'ble Supreme Court, however, rejected all such contentions and rejected the plea as was raised by the appellants therein. Hon'ble Supreme Court held as follows :-

“Apart from that even if it is assumed that concession was shown to such stall-holders by the N.D.M.C. the appellants cannot make grievance in respect of discrimination under [Article 14](#) of the Constitution. Having agreed to the terms of allotment they cannot legitimately claim that they should also be treated in the same manner. There appears to be some confusion in respect of the scope of [Article 14](#) of the Constitution which guarantees equality before law to all citizens. This guarantee of equality before law is a positive concept and it cannot be enforced by a citizen or court in a negative manner. To put it in other words, if an illegality or irregularity has been committed in favour of any individual or a group of individuals, the others cannot invoke the jurisdiction of the High Court or of this Court, that the same irregularity or illegality be committed by the State an authority which can be held to be a State within the meaning of [Article 12](#) of the Constitution, so far such petitioners are concerned, on the reasoning that they have been denied the benefits which have been extended to others although in an irregular or illegal manner. Such petitioners can question the validity of orders which are said to have been passed in favour of persons who were not entitled to the same, but they cannot claim orders which are not sanctioned by law in their favour on principle of equality before law. Neither [Article 14](#) of the Constitution

conceives within the equality clause this concept nor [Article 226](#) empowers the High Court to enforce such claim of equality before law. If such claims are enforced, it shall amount to directing to continue and perpetuate an illegal procedure or an illegal order for extending similar benefits to others. ...”

53. In the case of **Union of India & Ors. Vs. Rakesh Kumar, AIR 2001 SC 1877**, similar question was for determination before the Hon’ble Supreme Court. It was the case of the respondents therein that they were entitled for certain benefits which were given to the members of the BSF vide G.O. dated 27.12.1995. Vide the said G.O., number of persons were granted pensionary benefits even though they had not completed 20 years of service. Relying on the said G.O., the respondents had raised plea that the pensionary benefits granted to them shall not be disturbed and be released as early as possible. While rejecting the plea so raised, the Hon’ble Apex Court has observed as follows:-

“..In our view, for grant of pension the members of BSF are governed by CCS (Pension) Rules. CCS (Pension) Rules nowhere provide that a person who has resigned before completing 20 years of service as provided in Rule 48-A is entitled to pensionary benefits. Rule 19 of the BSF Rules also does not make any provision for grant of pensionary benefits. It only provides that if a member of the force who resigns and to whom permission in writing is granted to resign then the authority granting such permission may reduce the pensionary benefits if he is eligible to get the pension. Therefore, by erroneous interpretation of the rules

if pensionary benefits are granted to someone it would not mean that the said mistake should be perpetuated by direction of the Court. It would be unjustifiable to submit that by appropriate writ, the Court should direct something which is contrary to the statutory rules. In such cases, there is no question of application of [Article 14](#) of the Constitution. No person can claim any right on the basis of decision which is de hors the statutory rules nor there can be any estoppels...”

54. In the instant matters the applicants in Group-I applications despite having sufficient knowledge of the prohibition imposed applied for one and same post in more than one unit and their aforesaid act has resulted in cancellation of their candidature by the respondents. As has been held by the Hon'ble Supreme court in the case of **Gursharan Singh & Ors. Vs. New Delhi Municipal Committee & Ors.** (cited supra) before the claim of these applicants based on equality clause is upheld, it must be established by these applicants that their claim is just and legal. As we have noted hereinabove the orders of disqualification issued in the Police recruitment 2014 have not been declared illegal or unsustainable by any Court of law. Ultimately the State Government though decided to absorb all such candidates as noted earlier, the orders of disqualification cannot be held to be illegal. What prompted the State Government to take the decision to absorb all such candidates is undisclosed. However, as has been informed by the learned

CPO the absorption of such candidates did not have any adverse impact on the selection of the candidates, who abide by the condition imposed in the advertisement had applied for the concerned post only in one unit. In the above circumstances, according to us, the applicants in Group-I applications cannot claim the same orders, which are not sanctioned by law on principle of equality before law.

Prohibition imposed whether violative of Articles 14, 16 & 19 of the Constitution of India?

55. In order to support their contention that the prohibition so imposed violated the fundamental rights of the applicants as guaranteed in articles 14 & 16 of the Constitution, the learned counsel appearing for the applicants, as well as, learned counsel Moon have heavily relied upon the judgment of Hon'ble Rajasthan High Court in the case of **Jaheer Ahamad S/o Shri Fateh Vs. State of Rajasthan, S.B. Civil Writ Petition No. 14992/2020** decided on 24.2.2021. It has been argued that the facts involved in the present matters are quite identical with the facts which existed in the matter before Hon'ble Rajasthan High Court and, as such, the ratio laid down and the conclusion recorded in the said matter would squarely apply in the matters in hand.

56. As has been argued, in the matter before the Hon'ble Rajasthan High Court also the issue was in respect of the recruitment to the post of Police Constable Driver. The candidates from all over Rajasthan applied for the said post. A common written examination was conducted for all of them and thereafter a common merit list was prepared in order of merit. The physical efficiency test was however to be conducted at the District level. In the application form itself the candidates were asked to name the District of their choice for undergoing such physical efficiency test. Accordingly, the candidates underwent the physical efficiency test at the District level and thereafter merit list was prepared at the District level. The petitioner in the said petition had raised grievance immediately after issuance of the advertisement by making a representation, however, as nothing was done at the level of respondents, the petitioner was constrained to file the petition before the Hon'ble High Court. It was the contention of the petitioner that the procedure adopted of preparing the merit list at the District level would result in higher meritorious candidates being deprived of selection although lower meritorious candidates in other Districts would have march over them and be appointed as Constables. It was therefore the objection raised by the

petitioner that discrimination among candidates on the basis of District opted by them was clearly illegal, arbitrary and discriminatory, as well as, violative of Article 14 of the Constitution of India.

57. The Hon'ble High Court upheld the objections so raised. The High Court, though did not disturb the practice of conducting physical test at the respective districts directed Rajasthan Government to prepare a combined merit list for the entire State jointly of all Constables, who have appeared under the advertisement and then to issue appointment orders in order of merit by obtaining preferences from the candidates as about the district for their appointment.

58. As against the submissions made as above, learned Chief Presenting Officer has relied upon the judgment of the Hon'ble Apex Court in the case of **K.G. Ashok & Others Vs. Kerala Public Service Commission & Others, (2001) 5 Supreme Court Cases 419**. Learned counsel appearing for the applicants in Group-II applications also have relied upon the said judgment.

59. As has been submitted by the learned C.P.O. the ratio laid down in the aforesaid judgment would squarely apply to the

facts of the present matters, since identical facts existed in the said matter.

60. The facts involved in the said matter were thus : The Kerala Public Service Commission (for short ‘the Kerala Commission’) by gazette notifications dated 2.4.1996 & 11.4.1996 had invited applications for certain number of posts of Junior Health Officer Grade-II in 14 Districts of the State. Application could be filed by the candidate in any one of 14 Districts of his choice, but if applied for more than one district, his candidature was liable to be cancelled on that ground alone. Similarly, candidature of a person was liable to be cancelled, if he had applied in more than one district, but had made false declaration in the application form that he had not so applied. The appellants before the Hon’ble Apex Court were candidates whose applications had been rejected by the Commission on either of the aforementioned two grounds. The rejection of their candidature was challenged by the said candidates before the Hon’ble Kerala High Court, but the petitions so filed by them were rejected. The said candidates, therefore, approached the Hon’ble Apex Court. It was the argument on behalf of the said appellants before the Hon’ble Apex Court that the restriction of the choice of candidates to one district was violative of equality

clause enshrined in Articles 14 & 16 of the Constitution, as it took away the right of the candidates for being considered for the posts in other districts. It was the further contention of the appellants that although they had applied in more than one district, since the test was conducted in all the districts on one day, they could appear only in one district. It was, therefore, the contention on behalf of the appellants that the said condition should be read down in its application to their cases. It was also argued on behalf of the said appellants that, as many of them had crossed the upper age limit and vacancies were available, the appellants could, without disturbing already selected candidates, be considered for selection on the basis of their placement in the merit list. The Hon'ble Apex Court however, dismissed the appeal so filed.

Rajsthan view whether would apply

61. As is revealing from the facts of the aforesaid case before the Hon'ble Rajsthan High Court, the candidates therein were asked to fill in one single form and a common written examination was conducted for all candidates, who have applied for the said post. It is also revealed that a common merit list was then prepared at the State level of all the candidates, who appeared for the examination in order of merit. However, the

physical efficiency test was conducted at the respective Districts. The candidates were directed to appear for such physical efficiency test in the District named by them in their application form. The standard of physical efficiency test was same in all the Districts. Thereafter the merit lists were prepared at the District level and the appointments were issued as per the number of vacancies in the said District in order of merit. As has been observed by the Hon'ble Rajasthan High Court, since the merit lists were prepared at the District level and the appointments were given depending upon the vacancies existed in the said District, it resulted in higher meritorious candidates being deprived of selection in some of the Districts, whereas lower meritorious candidates got the appointments in other Districts. In the aforesaid background the conclusion was recorded by Hon'ble Rajasthan High Court that it was discrimination amongst the candidates on the basis of District opted by them. The anomaly was removed by the Hon'ble Rajasthan High Court by directing the Director General of Police to prepare a combined merit list of all the candidates, who have appeared under the advertisement and out of the said combined merit list and issue the appointment orders in order of merit and the preferences given by the candidates.

62. The aforesaid facts are quite different than the facts, which are existing in the matters before us. In the said matter as we noted hereinabove though written examination was conducted jointly for all the candidates and though a common merit list was prepared at the State level and though the standard of physical efficiency test was also same, only because the select lists were prepared at the District level, the higher meritorious candidates were deprived of their selection for want of sufficient number of vacancies in the said District chosen by them, whereas lower meritorious candidates were selected in other Districts having comparatively more vacancies. In the instant matters true it is that the candidates were restrained from submitting more than one application for one and the same post in more than one unit. It is also true that the application of a person was liable to be rejected if he had applied in more than one unit. However, it cannot be lost sight of that the candidate was free to choose any District of his choice. Right of the candidate was thus not curtailed as he was not prevented from choosing the District.

63. Secondly, in the instant matters there was no common or joint written examination for all the applicants, who have applied for the subject post and the examinations were

conducted at the District level. The physical efficiency tests were also conducted at the District level in the respective districts where the candidate concerned appeared for the written examination. The merit lists were also prepared at the District level and the appointments were issued accordingly in order of merit. In the selection process carried out in the instant matters there wasn't any scope for any such allegation that the meritorious candidate has been deprived of his selection and the lower meritorious candidate has been selected. Had there been a common written examination, perhaps it could be difficult to rule out the possibility of selection of a candidate having lower merit in some other District. When in all the Districts the written examinations were conducted on different dates and the question papers were also not the same, there is no scope for saying that had the candidates permitted or in other words not restrained from appearing for same post in more than one unit there were chances of their selection.

Law laid down by the Hon'ble Apex Court

64. In the case of **K.G. Ashok & Others Vs. Kerala Public Service Commission & Others** (cited supra) the Hon'ble Supreme Court has ruled that

“where the vacancies are notified in several Districts, restricting the choices of the candidates to apply in only one of such District cannot be held violative of articles 14 & 16 of the Constitution.”

65. The same argument as has been advanced in the instant matters was made before the Hon’ble Supreme Court in the said matter that the restrictions on the candidates to apply in only one District was violative of equality clause enshrined in articles 14 & 16 of the Constitution as it took away the right of the candidates for being considered for the posts in other Districts. The Hon’ble Supreme Court, however, rejected the said contention by observing that :-

“Though a candidate is prohibited from applying to more than one district, he is free to choose any district of his choice and thus the only thing is that the candidate is not entitled to apply for the same post in more than one district at a time. Here, the right of the candidate is not curtailed as he/she is not prevented from choosing the district of his/her choice.”

The Hon’ble Supreme Court has further observed that,

“At the same time, if every person is permitted to apply for all districts the number of applications received by the Commission will be 14 times the number of applications now being received with the result that the Commission will be doing a futile exercise of selection work, in the other 13 districts, as a candidate can after all accept appointment in only one District. Considering all these aspects the Commission has imposed the restriction on candidates from applying in more than one district in response to one and the same notification. The restriction does not tantamount to

the denial of opportunity to a candidate for applying to any post.”

66. The aforesaid judgment was cited before the learned Division Bench of this Tribunal when earlier these matters (Group-I) were heard by it. The learned bench however, expressed that the ratio laid down in the said judgment was not useful for the matters before it.

67. The learned Division Bench in its order dated 11.4.2022 has observed thus :

*“The case of the applicant in the present Original Applications is distinguishable on the facts from the case of **K.S. Ashok (supra)** mainly on the ground that the number of posts which are advertised by the single notification by the advertisement and so also the parties conducting the examination and appointing authorities are also different i.e. District-wise and it is not the common examination conducted at State level. The Superintendent of Police in the District / Commissioner of Police in the Commissionerate are treated as separate unit having its own vacancies for which examination is conducted on different dates and at different places and the appointing authority was also different at District level. Thus, though by one common advertisement i.e. of 2019 the drive of appointment of Constable Drivers were taken by the State, it was diversified at District levels, and therefore, the ratio laid down in the case of **K.S. Ashok (supra)** is not useful in the present case.”*

68. It is difficult to agree with the analysis made by the learned Division Bench. It proceeded on a wrong footing that in

KG Ashok's matter there was a common written examination; whereas in the matter before it written examinations were held at District level. It is immaterial whether it's a common written examination or the examination at every district place and whether appointing authorities are different or sole. In paragraph 12 & 13 of the said judgment the Hon'ble Supreme Court has observed thus,

"12. It appears that the government introduced decentralisation of recruitment to the lower ministerial cadre in various departments and teaching posts in Education Department to district level vide G.O. (MS) No.154/71 dated 27.5.1971 with a view to avoid administrative inconvenience caused due to dearth of recruits in such cadres in northern districts of Kerala. It was with this intention that Government stipulated conditions restricting inter district transfers vide Government Order dated 27.5.1971. However, while implementing the decentralisation, a lot of practical problems cropped up before the Commission. If candidates are allowed to apply to more than one district in response to the same notification, they have to be allowed to appear in the tests to be conducted in different districts on different dates and subsequently, if they find a berth in the ranked list relating to more than one district, they will have to be advised for recruitment from more than one district if the occasion arises. A candidate who is appointed in one district will have to forego appointment in another district and the same defeats the very purpose of the aforementioned Government Order. The circumstances as detailed above would put the Commission in an embarrassing situation and cause administrative difficulties. The situation would assume fresh dimensions if it is allowed to prevail in the present day district-wise selections. Therefore, the candidates are permitted to apply for one district only in one notification. It is in

order to avoid such exigencies and to facilitate a feasible selection process, the Commission issued orders to the effect that candidates are prohibited from applying to more than one district for the post notified in one and the same notification. Accordingly in the notification inviting applications for district-wise selection, specific instructions are incorporated to the effect that candidates should not send applications for the post in more than one district and his failure to observe the same would entail rejection of application of such a person apart from taking other actions enumerated above.

13. *Though a candidate is prohibited from applying to more than one district, he is free to choose any district of his choice and thus the only thing is that the candidate is not entitled to apply for the same post in more than one district at a time. Here, the right of the candidate is not curtailed as he/she is not prevented from choosing the district of his/her choice. At the same time, if every person is permitted to apply for all districts the number of applications received by the Commission will be 14 times the number of applications now being received with the result that the Commission will be doing a futile exercise of selection work, in the other 13 districts, as a candidate can after all accept appointment in only one District. Considering all these aspects the Commission has imposed the restriction on candidates from applying in more than one district in response to one and the same notification. The restriction does not tantamount to the denial of opportunity to a candidate for applying to any post.”*

69. In our opinion, to the facts of the present matters, the ratio laid down by the Hon’ble Supreme Court in the case cited supra would squarely apply. In fact, in K.G. Ashok’s matter the written test was conducted in all 14 districts simultaneously and in spite of that the Hon’ble Supreme Court upheld the

decision of Kerala Public Service Commission of restricting the candidates from applying for the same post in more than one district observing that if every person is permitted to apply for all districts the number of applications received by the Commission will be 14 times the number of applications now being received with the result that the Commission will be doing a futile exercise of selection work, in the other 13 districts, as a candidate can after all accept appointment in only one District.

70. In the instant matter written examination and the physical test have been conducted at the respective units on different dates. If every candidate had been permitted to apply for all the districts or as many districts as he desires, the number of applications received to every district/unit had been many times more than the applications actually received and in such circumstances at every district/unit the arrangements had to be made for such number of candidates for their written examination and proportionately for their physical efficiency test also, with the result that the various districts/units had been doing a futile exercise of selection work as candidate can after all was to accept the appointment in only one district.

71. As has been elaborated by the learned CPO, Smt. Manchekar, in the recruitment process conducted for the recruitment of Police Constables for 3450 posts, 8,81,000 applications were received. It was noticed that large number of candidates had applied in more than one district. Administration was, however, required to conduct the scrutiny of all those applications. Taking lesson from the said experience, the State Government took a practical decision to impose prohibition thereby prohibiting the candidates from making applications for one and the same post in different units. Learned CPO submitted that, because of the prohibition so imposed, the number of applications received for 1854 posts could be brought down to 1,17,000. The object, kept behind imposing such prohibition was thus achieved.

72. In the aforesaid process, it does not appear to us that any candidate was denied opportunity to contest for the advertised posts. Though a prohibition was imposed for making applications in more than one unit, the candidates were given due liberty to make application in any of the district of their choice and to appear for the examination at centre given for the said district. The decision so taken by the Government, according to us, was taken in holistic manner and in the larger

public interest. We see no mala fides in it. It also does not appear to us that there were any extraneous reasons in imposing such prohibition. The decision so taken cannot be termed as arbitrary and it cannot be said that the respondent authorities adopted discriminatory practice.

Breach of second prohibition – whether actionable ?

73. It has also been argued that in clause 11.10 of the advertisement dated 30-11-2019 though two prohibitions are imposed, first that candidate shall not fill in two applications for one and the same post in one and the same unit and the other that the candidate shall not apply for one and the same post in more than one unit, the breach of only first prohibition is made actionable. It has been further contended that the respondents themselves have consciously chosen to make a distinction between two prohibitions imposed and the consequent provision of cancelling the candidature of the candidate is provided only for the breach of first prohibition but no such provision is made for the breach of the second prohibition. In the circumstances, according to the applicants in group-I applications candidature of the candidates who applied for one and the same post in more than one unit or in other words in multiple units could

not have been cancelled by the respondents without any provision expressly made therefor. We are, however, not impressed by the submissions so made.

74. In the case of **Karnataka Public Service Commission & Ors. V/s. B. M. Vijaya Shankar & Ors. [(1992) 2 SCC 206]**, similar issue was for consideration before the Hon'ble Supreme Court amongst others. In the said matter, facts were thus: Karnataka Public Service Commission conducted a competitive examination for the State Civil Services for categories 'A' & 'B' posts. The respondents who appeared in the examination, wrote their roll numbers not only on the cover page in the space provided for it but even at other places in the answer book in disregard of the instructions issued by the Commission. Therefore, the answer books in which the roll numbers had been written inside were not subjected to evaluation by the Commission. This action of the Commission was challenged before Karnataka Administrative Tribunal. The Tribunal issued directions to get answer books of the candidates evaluated on the basis of inference drawn by it that, "no penalty was provided for breach of instructions requiring a candidate not to write his roll number inside answer book." The decision of the Karnataka Administrative Tribunal was challenged by the Karnataka

Public Service Commission before the Hon'ble Supreme Court. While allowing the appeal filed by the Commission, Hon'ble Supreme Court held that, "*direction not to write roll number was clear and explicit. It was printed on the first page of every answer book. Once it was violated the issue of bonafide and honest mistake did not arise. **Its consequences, even, if not provided did not make any difference in law.** The action could not be characterised as arbitrary. It was not denial of equal opportunity. The reverse may be true.*"

The Hon'ble Apex Court has further observed that, "*the tribunal in issuing directions approached the matter technically and has attempted to make out much where it would have been better part of discretion to refuse to interfere. The tribunal completely misdirected itself in this regard. In our opinion its order cannot be maintained.*"

75. In the instant matters also in clause 11.10, there was a specific instruction that, एकाच पदासाठी विविध पोलीस घटकात आवेदन अर्ज सादर करता येणार नाहीत. It means, "it will be impermissible to make applications for one and same post in various police units." The applications were to be filled in online. The applicants were admittedly called upon by the online computer system to

submit an undertaking that information submitted by them is correct. Very first clause of the undertaking is that, "*I have read and understood the advertisement carefully before filling in the form.*" Thus, there is no scope for the applicants to say that the aforesaid condition containing in clause 11.10 of the advertisement was not read or was not understood by them. In the circumstances, if the applicants in violation of the conditions so imposed had submitted the applications for one and the same post in various units, they have to be held guilty of committing breach of the condition so imposed, and therefore, as held by the Hon'ble Apex Court, even if its consequences are not provided, did not make any difference and the action of the respondents of cancelling the candidature of the applicants on the aforesaid ground, therefore, cannot be faulted with on the aforesaid ground and could not be characterized as arbitrary.

Principle of 'Estopell' :

76. 'Challenge to the recruitment process by the applicants in Group-I after participating in the selection process' whether can be sustained is another issue, which has been with equal vehemence pressed by the applicants in Group -II applications. It is not in dispute that none of the applicants in Group-I had

raised any grievance or challenge to clause 11.10 in the advertisement before participating in the selection process. It has been argued that in catena of judgments, the Hon'ble Apex Court has ruled that principle of estoppel prevents a candidate from challenging the selection process after having participated in it, but failed in securing the appointment. Learned Counsel appearing for the applicants in Group -I have resisted the aforesaid objection relying on the judgment of the Hon'ble Apex Court in the case of **Dr. (Major) Meeta Sahai Vs. State of Bihar & Ors., (2019) 20 SCC 17.** It is argued that where the candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, same cannot be condoned merely because candidate has partaken in it because constitutional scheme is sacrosanct and its violation is impermissible. It has been contended that in the facts of the instant matters, the ratio laid down in the case of **Dr. (Major) Meeta Sahai** (cited supra) would be squarely applicable. It has been argued that since the prohibition imposed is violative of the fundamental rights, the applicants were not under any obligation to raise challenge to the said provision before participating in the selection process.

77. We however, find it difficult to agree with submissions so made. There cannot be a dispute about the ratio laid down by the Hon'ble Apex Court in the case of **Dr. (Major) Meeta Sahai** (cited supra), however it cannot be made applicable to the facts and circumstances existing in the instant matters. We have gone through the text of the aforesaid judgment. The basic and apparent difference in the facts involved in the said matter and the facts of the instant matters is that in the case of **Dr. (Major) Meeta Sahai** (cited supra) though 'work experience' was restricted to the work done only in the Government hospitals of Government of Bihar, there was no such stipulation in the said advertisement that candidates not having experience of working in the Government hospitals of Government of Bihar shall not apply for the post in question. As against it in the instant matters there was complete prohibition for making more than one application for one and the same post in more than one unit. As such, any candidate who has submitted more than one application for one and the same post in various units was carrying huge risk of getting his candidature cancelled. Such risk was not there in the case of **Dr. (Major) Meeta Sahai** (cited supra). In the said case the worst consequence would have been that **Dr. Meeta** could not have earned any marks allotted

under the head 'work experience'. Twenty five marks were allotted towards 'work experience' out of hundred marks, but in no case on that ground her candidature could have been rejected or kept out of consideration. In the matters in hand the candidate making applications for one and the same post in more than one unit was liable to be disqualified on the said sole ground.

78. Ordinarily in such circumstances the criteria of prudent man has to be applied. What a prudent man would have done in such contingency? No prudent man would have taken a risk of getting out of the race totally and to be declared disqualified for competing the advertised post not only in relation to the subsequent application, but also first application submitted by him, on the ground that for one and the same post he made applications in two units in contravention of the specific prohibition in that regard. Such person would have first challenged the said provision if in his opinion it was arbitrary and violative of his constitutional right under Articles 14 & 16. The Hon'ble Supreme Court has consistently ruled that a person having consciously participated in selection process cannot turned around and challenge the same. In the judgment in the case of **Dr. (Major) Meeta Sahai** (cited supra) itself the

Hon'ble Supreme Court has referred to its judgment in the case of **Manish Kumar Shahi Vs. State of Bihar, 2010 (12) SCC 576**, wherein it is held that: -

“16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The appellant invoked jurisdiction of the High Court under [Article 226](#) of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the appellant clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.”

79. In **Ramesh Chandra Shah & Ors. Vs. Anil Joshi & Ors., (2013) 11 SCC 309**, the Hon'ble Supreme Court has referred to and relied upon its earlier judgments and has recorded the following conclusion:

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

The judgment delivered by the Hon'ble Apex Court in the case of Manish Kumar Shahi Vs. State of Bihar (cited supra) also discussed in the aforesaid judgment.

80. In the instant matters also had it not been detected that they had made applications for one and the same post in two units and had they been selected, the applicants in Group-I application would not have raised any challenge to the prohibition so imposed. These applicants approached the Tribunal only after their candidature was cancelled by the respondents on the ground of contravening the prohibition so imposed.

81. Moreover, if it is the case of the applicants that there was confusion in respect of prohibition so imposed, the best course available for them was to get the said clause clarified and/or to raise challenge to the said clause and get it set aside by the competent legal forum. The candidates themselves could not have judged that the prohibition so imposed was unconstitutional and, as such, it was not necessary to raise any objection in that regard before participating in the selection process.

82. Circumstances on record show that the applicants were fully aware of the prohibition so imposed, as well as, its consequences or else they would not have indulged in using different email id and different cell number while making subsequent application for one and the same post in another unit or units. It appears that the applicants took a risk under a wrong belief that the fact of their submitting more than one application was not likely to be detected. From the evidence which has come on record it is quite evident that despite having knowledge that filling in two applications by them for one and the same post in more than one unit would entail in their disqualification, the applicants consciously participated in the selection process and only after their candidature was cancelled that they have approached the Tribunal raising all sorts of objections against the prohibition so imposed. In the circumstances, the principle of estoppel would certainly apply against the applicants in Group-I. These applicants have waived their right to question the advertisement or methodology adopted by the respondents vide clause 11.10 in the said advertisement. Their applications cannot be entertained on this sole ground.

Non-joinder of necessary parties :-

83. 'Non-joinder of necessary parties in Group-I applications' is one more issue for our consideration. It is true that except in O.A. No. 167/2022 in none of other applications in Group-I the applicants have impleaded any person likely to be adversely affected as the respondent. When the applicants had claimed that despite having secured more marks and more meritorious position than the other candidates, they have been deprived from getting the appointment on the ground that they have filled in applications for one and the same post in more than one unit, it is evident that they were fully aware that if the Tribunal decides the matter in their favour, the candidates who have secured the position in the select list are likely to be affected. In such circumstances, it was incumbent for all these applicants in Group-I applications to implead such persons as the respondents. The Hon'ble Supreme Court in the case of **J.S. Yadav Vs. State of Utter Pradesh and Anr., (2011) 6 SCC 570** has held that in case of non-joinder of necessary party, petitioner/plaintiff may not be entitled for the relief sought by him. It would be appropriate to reproduce hereinbelow the observations made by the Hon'ble Supreme Court in paragraphs 31 & 32 of the said judgment, which read thus:

“31. No order can be passed behind the back of a person adversely affecting him and such an order if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice. The principles enshrined in the proviso to Order I Rule 9, of the Code of Civil Procedure, 1908 provide that impleadment of a necessary party is mandatory and in case of non-joinder of necessary party, the plaintiff/petitioner may not be entitled for the relief sought by him. The litigant has to ensure that the necessary party is before the Court, be it a plaintiff or a defendant, otherwise the proceedings will have to fail. In Service Jurisprudence if an unsuccessful candidate challenges the selection process, he is bound to implead at least some of the successful candidates in representative capacity. In case the services of a person is terminated and another person is appointed at his place, in order to get relief, the person appointed at his place is the necessary party for the reason that even if the plaintiff/petitioner succeeds, it may not be possible for the Court to issue direction to accommodate the petitioner without removing the person who filled up the post manned by plaintiff/petitioner. (Vide: *Prabodh Verma & Ors. etc. v. State of U.P. & Ors. etc.*, AIR 1985 SC 167; *Ishwar Singh & Ors. v. Kuldip Singh & Ors.*, 1995 (supp) 1 SCC 179; [Tridip Kumar Dingal & Ors. v. State of West Bengal & Ors.](#), (2009) 1 SCC 768; *State of Assam v Union of India & Ors.*, (2010) 10 SCC 408; and [Public Service Commission, Uttaranchal v. Mamta Bisht & Ors.](#), More so, the public exchequer cannot be burdened with the liability to pay the salary of two persons against one sanctioned post.

32. The appellant did not implead any person who had been appointed in his place as a Member of the Commission. More so, he made it clear before the High Court that his cause would be vindicated if the Court made a declaration that he had illegally been dislodged/restrained to continue as a Member of the Commission. In view of the above, he cannot be entitled for any other relief except the declaration in his favour which had been made hereinabove that the impugned Notification dated 28.5.2008 is illegal.”

Law laid down in the aforesaid judgment would squarely apply to the facts of the present case. Barring O.A. No. 167/2022 the applicants in other OAs in Group-I cannot be held entitled to any relief sought by them for failure on their part to implead the candidates, likely to be adversely affected in the event their Original Application is allowed, as respondent(s), who were necessary parties for adjudication of their claim.

Back to Clause 11.10 :-

84. We revert back to clause 11.10 of the advertisement and reiterate herein below our conclusions insofar as the said clause is concerned -

(1) In view of the law laid down by the Hon'ble Supreme Court in the case of **K.G. Ashok & Others Vs. Kerala Public Service Commission & Others** (cited supra) that 'where vacancies are notified for several Districts, restricting the choice of the candidates to apply in only one of such Districts cannot be held to be violative of articles 14 & 16 of the Constitution', the prohibition imposed vide clause 11.10 of the advertisement dated 30.11.2019 thereby prohibiting the candidates from making application for one and the same post in more than one Unit, is held not to be violative of articles 14, 16 or 19 of the Constitution.

(2) To decide the process of recruitment and for that purpose settle the terms & conditions is within the competence of the State Government or the Director General of Police, Maharashtra State by virtue of rule 11 of the Recruitment Rules, 2019.

(3) The provisions under clause 11.10 in the advertisement are no way contrary to any of the provision in the Maharashtra Police Act, 1951 or the Recruitment Rules of 2019.

85. It is thus evident that the applicants in Group-I applications have failed in substantiating the objections raised by them in respect of clause 11.10 of the advertisement. It is not in dispute that the selection process as was determined by the State was reflected in the advertisement. As held by Hon'ble Supreme Court in the case of **Bedanga Talukdar Vs. Saifudaullah Khan & Ors., (2011) 12 SCC 85** the selection process has to be conducted strictly in accordance with the stipulated selection procedure which needs to be scrupulously maintained. Hon'ble the Supreme Court in the case of **The State of Tamil Nadu & Ors. Vs. G. Hemalathaa & Anr. (Civil Appeal No. 6669/2019 arising out of SLP (C) No. 14093/2019)** decided on August 28, 2019, has ruled that, the terms and conditions stipulated and the instructions issued in the advertisement are mandatory and carry the force

of law and the candidates are expected to strictly comply with the same.

86. In clause 11.10 of the advertisement when the candidates were specifically prohibited from making an application for one and the same post in more than one unit, the applicants were under an obligation to strictly adhere to the said term and any contravention of the said condition was to result in cancellation of their candidature. Despite that the applicants made applications in more than one unit and were eventually noticed to have made such applications and their candidature was cancelled on the said ground. It does not appear to us that in cancelling the candidature of the applicants on the aforesaid ground, the respondents have committed any error.

87. In the case of **State of Tamil Nadu & Ors. Vs. G. Hemalathaa & Anr.** (cited supra) she had applied for the post of Civil Judge in Tamil Nadu State Judicial Services. She passed the preliminary examination and hence was permitted to appear for the written test. Her name however, did not appear in the merit list. After the final result was published respondent G. Hemalathaa came to know that another candidate belonging to the same community to which she belongs (Most Backward Class) was

selected in spite of her performance not being satisfactory. Respondent G. Hemalathaa, therefore, made a representation and demanded the information as about the marks received to her in the written examination. The Tamil Nadu Public Service Commission (for short 'the T.N. Commission') conveyed to the respondent that her Law Paper-1 was invalidated in view of violation of the instructions to applicants. Respondent G. Hemalathaa, therefore, filed a Writ Petition in the High Court seeking direction to declare her result and appoint her as a Civil Judge, provided she has secured more marks than the last selected candidate in the Most Backward Class Category. It was contention of the Respondent G. Hemalathaa in the High Court that the Commission has wrongfully invalidated her Law Paper-1. The High Court summoned the answer sheets and found that Respondent G. Hemalathaa had underlined the answer sheet with pencil at several places in Law Paper-1. It was in clear violation of instruction No. 22 (1)(ii) of the instructions issued by the Commission which prohibits the candidates from using pencil for any purpose. The Hon'ble High Court however, on sympathetic considerations directed the T.N. Commission to conduct her interview as a special case and to announce the final result. Dissatisfied with the said order the

State Government approached the Hon'ble Apex Court. After having heard the parties the Hon'ble Supreme Court set aside the order passed by the Hon'ble High Court by observing that to pass any order in favour of the candidate, who has violated mandatory instructions would be laying down bad law. In the said judgment the Hon'ble Apex Court has reproduced the observations made in its earlier judgment in the case of **Umesh Chandra Shukla Vs. Union of India, (1985) 3 SCC 721**, which read thus: -

“13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules.”

88. The observations made by the Hon'ble Apex Court in paragraph 9 of the said judgment are also material, which read thus: -

“9. In spite of the finding that there was no adherence to the Instructions, the High Court granted the relief, ignoring the mandatory nature of the Instructions. It cannot be said that such exercise of discretion should be affirmed by us, especially when such direction is in the teeth of the Instructions which are binding on the candidates taking the examinations.”

89. In **O.A. No. 020/00150/2020 (T. Venkata Siva Tej Deep S/o T. Siva Rama Prasad Vs. Union of India & Ors.)** decided on 30th September, 2020 the learned Central Administrative Tribunal, Hyderabad Bench was required to deal with the identical issue as has been raised in the instant matters. The applicant in the said O.A. was not allowed to appear in the Combined Graduate Level Examination – 2019 having committed mistake in filling in online applications. The applicant had made 2 online applications and hence his candidature was cancelled as per following (para 20(h)) condition specified in the recruitment notice :-

“Only one online application is allowed to be submitted by a candidate for the Examination. Therefore, the candidates are advised to exercise due diligence at the time of filling their online Applications Forms. In case, more than one applications of a candidate are detected, all the applications will be rejected by the Commission and his/her for the examination will be Cancelled. If a candidate submits multiple applications and appears in the examination (at any stage) more than once, his/her candidature will be cancelled and he/she will be debarred from the examinations of the Commission as per rule.”

90. It was the contention of the applicant that it was bona-fide mistake committed by him and it was his last chance to appear in the examination in view of age restrictions. The Division Bench of C.A.T., Hyderabad Bench, however, rejected the

request made by the applicant therein and dismissed the O.A. by observing that, “that the instructions apply equally to all the candidates and any relaxation granted to the applicant would discriminate those candidates, who have correctly filled up the online applications. Such discrimination is not permitted under law.” We deem it appropriate to reproduce herein below some of the observations made in the said judgment, which are relevant in the present context :-

“(ii) The respondents as a policy decided not to entertain any online application which infringes the mandatory instructions contained in the recruitment notice. Tribunal cannot interfere in Policy matters as laid down by the Hon’ble Supreme Court in *BALCO Employees’ Union (Regd.) Vs. Union of India, (2002) 2 SCC 333* and in *CSIR Vs. Ramesh Chandra Agrawal* in Civil Appeal No. 1716 of 2004 respectively.

(iii) To treat sharply dissimilar persons equally is subtle injustice. The candidates who have filled in the online applications properly and responsibly would be discriminated by allowing the relaxation sought. The very sanctity of the exam and the relevance of the rules would be compromised. Once such a relaxation is granted then the process would be unending facilitating similar demands for any exam conducted by the U.O.I. now and later too.

(iv) Rules laid down have to be followed and Hon’ble Supreme Court has in no uncertain terms has emphasized the necessity to follow rules in a catena of judgments as under:-

The Hon’ble Supreme Court observation in T. Kannan and ors. vs. S.K. Nayyar (1991) 1 SCC 544 held that “Action in respect of matters covered by rules should be regulated by rules”. Again in

Seighal's case (1992) (1) sup 1 SCC 304 the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex Court held 'the court cannot dehors rules.' ”

Repeated instructions to follow the rules, in regard to filling the correct details in the on line application has been emphasized in the relevant recruitment notice. Committing a mistake and pleading to grant relief as sought, by violating the rules, would be in violation of the above observations of the Hon'ble Supreme Court as at above. Mistake is not a minor one since it is the very foundation of the examination system. Without the foundation there can be no building which can be construed. Similarly there can be no building of an exam without the foundation of a properly filled online application.

(v) Tribunal is not empowered to relax the rules framed by the respondents and accommodate the applicant plea, as pointed out by the Hon'ble Apex Court in *Govt. of Orissa Vs. Hanichal Roy, (1998) 6 SC 626*.

(vi) End has to be legitimately justifiable as observed by Hon'ble Apex Court in *State of Kerala Vs. N.M. Thomas, (1976) 2 SCC 310*, at page 356. The applicant is seeking relief for which he is not legitimately eligible as the relief sought has to be granted by violating the relevant rules.

(vii) Rules of the game cannot be changed enroute as observed by the Hon'ble Apex Court in *K. Manjushree Vs. State of A.P. : (2008) 3 SCC 512*. The rule of the game was to fill in the online application correctly as per mandatory instructions in the recruitment notice which cannot be changed for the sake of the applicant after his application was scrutinized and rejected.

91. Considering the law laid down in the aforesaid judgments the applicants were under an obligation to scrupulously follow

and strictly comply with the terms and conditions contained and the instructions given in the advertisement dated 30.11.2019. The instructions issued in the advertisement dated 30.11.2019 were mandatory having the force of law and were expected to be followed by the candidates. As noted above the Hon'ble Supreme Court did not condone even a minor infraction of the instructions by the candidates appearing for the examination. In the instant matter there was a complete prohibition for making application for one and the same post in more than one unit. The applicants however, did not adhere to the said instructions and filled in applications for the same post in more than one unit. In view of the above the disqualification of the applicants in Group-I applications by the concerned respondents cannot be faulted with. The respondents have not committed any error in passing such orders.

Whether innocent act?

92. A contention has also been raised on behalf of these applicants that, *per se*, contravention of the prohibition imposed in clause 11.10 of the advertisement cannot be a sole ground for cancelling the candidature of these candidates. It has been contended that many of them innocently filled in more than one application in more than one unit and there was no intention to

contravene the prohibition so imposed. It has also been argued that since many of these applicants had also applied for the post of Police Constable pursuant to the advertisement dated 03-09-2019 and since there was no such condition in the said recruitment, under a bona fide belief that even in the present recruitment also it may be permissible to make applications in two units that the applicants have filled in applications in more than one unit. It has also been argued that these applicants have proved their merit in the written examination as well as in the physical test and have been selected on their own merit. It has also been argued that cancelling their candidature would result in selection of less meritorious candidates. It has also been argued that even at some later stage, it was realized by these applicants that they have committed a mistake of submitting applications in more than one unit for the same post and even though they were willing to withdraw their applications from the other unit or units, since there was no such provision of withdrawing the applications, could not withdraw the application.

93. The submissions as are made claiming innocence on part of the applicants in submitting applications in more than one unit for the subject post are difficult to be accepted. The information about all these 125 candidates is provided along with a short

affidavit submitted by an authorized Police Officer on behalf of the respondent State. We have gone through the said information minutely. It is apparently revealed that every one of these applicants while filling in subsequent application/s has used different E-mail ID and provided different cell phone number. It is also noticed by us that some of the candidates have spelt their names and names of their parents differently than in their first application.

94. From the information which has come on record, it is writ large that the applicants were fully aware of the fact that it was impermissible to fill in applications for one post in more than one unit or else they would not have resorted to the practice of providing different E-mail IDs, different cell phone numbers and spelling their names and their parents' names differently than in the first application. In no case, it can be accepted that it was an innocent act of these applicants. Moreover, as it has been brought to our notice, while filling in the applications online, the applicants were admittedly called upon by the computer system to submit an undertaking that the information submitted by them is correct. We are also informed that some warning also used to be reflected cautioning the candidates submitting a subsequent application as below:

“Warning : A similar record was found in applicants list. If identified that the duplicate registration was deliberately created, the Departments hold the authority to reject / disqualify the candidate and no refund shall be provided. Please ignore the message and continue your registration if this is your only registration profile.”

95. In view of the facts as above, it cannot be accepted that there was no intention of the applicants to commit breach of conditions imposed in the advertisement. From the material on record, it has been sufficiently proved that the applicants in Group-I applications have knowingly flouted the instructions/conditions contained in the advertisement.

96. It may not be disowned that while passing the earlier order the Tribunal did not comprehend that the direction given by it to consider the candidature of the applicants before it would prejudicially affect the interest of the candidate who abided by the prohibition imposed had applied for the subject post in only one unit. In fact, to give such direction was violative of Article 16 of the Constitution. Article 16 is violated both by unequal treatment of the equals and equal treatment of the unequals. The candidates who scrupulously followed the terms and conditions of the advertisement and therefore refrained themselves from making applications for the same post in more than one Unit were required to compete with the

candidates, who by contravening the terms and conditions of the advertisement made applications in more than 2 Units. This amounted to equal treatment to the unequals. Because of such direction, at some places the candidates, who violated the terms and conditions of the advertisement and on that ground were not eligible were considered for their appointment and also got the appointment, whereas the law abiding eligible candidates could not be considered. Consideration of candidates who committed breach of the condition and non-consideration of the candidates who obeyed the condition are both violative of article 16 of the Constitution. This Larger Bench after having thoroughly considered the various aspects involved in the matters has reached to the conclusion that earlier decisions did not lay down a correct position of law.

97. Based on the orders passed in O.A. No. 144/2022 with connected OAs by the learned Division Bench of this Tribunal at the Principal Seat at Mumbai on 11.4.2022 and the orders passed by the learned Nagpur Bench of this Tribunal prior to that on 31.3.2022 in O.A. No. 22/2022 with connected OAs, a Circular was issued on 6.5.2022 by the Additional Director General of Police (Training and Special Unit), M.S., Mumbai, directing the respective unit heads to conduct physical test of

the candidates who were earlier disqualified and if thereafter such candidates fall in merit to include their names in the final select list and to declare the final select list. By that time the appointments have been issued to the candidates in order of their merit on the basis of the earlier select list not containing the names of the candidates who had applied for one and the same post in more than one unit. After the select lists were revised on the basis of the decisions rendered by this Tribunal mentioned as above and the Circular dated 6.5.2022 issued by the Additional Director General of Police (Training and Special Unit), it was noticed that some of the candidates whose names were subsequently included in the revised list were having more marks than some of the candidates already appointed. In such circumstances, on 22.7.2022 another Circular came to be issued by the Additional Director General of Police (Training and Special Unit) directing the concerned unit heads to issue order of appointments to the candidates subsequently included in the revised list and in the event if required to discharge the last selected candidates in the select list having less marks than the candidates subsequently included in the revised list. Pursuant to the aforesaid Circular, the show cause notices came to be issued to the candidates whose services were required to be

terminated to accommodate the candidates whose names were subsequently included in the select list on the strength of the orders passed by this Tribunal. Applicants in O.A. Nos. 775 to 779, and O.A. Nos. 793 & 796 all of 2022 are such candidates who have been served with such notices. The interim protection has been granted by this Tribunal to all such applicants and on that basis they are continued in service. Some of the applicants in other OAs in Group-II also approached this Tribunal with a grievance that because of the orders passed by the Tribunal on 11.4.2022 and 31.3.2022 they are likely to be deprived from getting appointment though their names are existing in the earlier provisional select list, if the names of the candidates who filled in two or more applications for one and the same post in different units are included in the revised select list.

The applicants in Group-II applications have prayed for quashment of the show cause notices referred to herein above. In light of the findings recorded by us the Circulars dated 6.5.2022 and 22.7.2022 would become inoperative. Consequently the show cause notices issued to the applicants in Group-II would also become inoperative.

98. The applicants in O.A. No. 830/2022 though have prayed for direction against the respondents to prepare a common seniority list at State level and then to select the candidates in order of merit, it is difficult to accept such prayer at this stage. It is the matter of record that the written examinations, as well as, physical tests were held at District level on different dates. The question paper was also not same for all these Districts, in fact, it could not have been when the examinations were on different dates. In the circumstances, when the selection process has been substantially completed now there is no propriety in seeking such direction that a common merit list shall be prepared at the State level. It is practically impossible. The said prayer therefore has to be rejected. Insofar as other prayers in the said application are concerned, no separate orders are required to be passed in that regard. The said aspects are covered and require no separate order in view of the fact that applications in Group-I are being dismissed.

99. In O.A. Nos. 790 and 791 both of 2022 the applicants therein have prayed for recall of the order dated 11.4.2022 passed in Group-I applications and have also prayed for quashment of the orders passed by the Additional Director General of Police (Training & Special Squad) on 6.5.2022 and

13.7.2022 respectively. In view of the discussion made and findings recorded by us, these prayers deserve to be allowed.

100. It need not be stated that the dismissal of the Original Applications in Group-I by this Larger Bench would obviously result in setting aside the orders of appointments issued on the basis of the earlier common order dated 11.4.2022 passed in these matters by the learned Division Bench of this Tribunal at Principal Seat. While disposing of Writ Petition No. 224/2023 with Writ Petition No. 226/2023 filed by some of the applicants in Group-I, the Hon'ble Division Bench of Bombay High Court vide common order passed on 5.1.2023 has protected services of said applicants till decision of the present matters by this Larger Bench. As such, these applicants are till date in service. Their appointments shall stand set aside from the date of this order.

101. For the reasons elaborated by us above, we summarize our conclusions as under :-

- (1) In view of the law laid down by the Hon'ble Supreme Court in the case of **K.G. Ashok & Others Vs. Kerala Public Service Commission & Others** (cited supra) that 'where vacancies are notified for several Districts, restricting the choice of the candidates to apply in only one of such

Districts cannot be held to be violative of articles 14 & 16 of the Constitution', the prohibition imposed vide clause 11.10 of the advertisement dated 30.11.2019 thereby prohibiting the candidates from making application for one and the same post in more than one Unit, is held not violative of articles 14, 16 or 19 of the Constitution.

(2) To decide the process of recruitment and for that purpose settle the terms & conditions, is within the competence of the State Government or the Director General of Police, Maharashtra State by virtue of rule 11 of the Recruitment Rules, 2019.

(3) Clause 11.10 in the advertisement is no way contrary to any of the provision in the Maharashtra Police Act, 1951 or the Recruitment Rules of 2019.

(4) The challenge to the recruitment process by the applicants in Group-I applications, after having themselves taken part in it, is not maintainable.

(5) It was incumbent on part of the applicants in Group-I Original Applications to implead the persons likely to be adversely affected in the event their applications are allowed as respondents as they were 'necessary parties'.

(6) The candidature of the applicants in Group-I has been rightly cancelled by the concerned authorities for committing breach of the prohibition imposed in clause 11.10 of the advertisement.

(7) The act of filling in 2 applications for one and the same post in more than one Unit cannot be accepted to be an inadvertent or innocent act.

(8) The circulars dated 6.5.2022 and 22.7.2022 issued by the Additional Director General of Police (Training & Special Unit) and the show cause notices issued to the applicants in Group-II applications deserve to be set aside.

102. In view of the conclusions recorded by us as above the following order is passed :-

ORDER

(i) Original Application Nos. 144, 145, 146, 167, 203, 300, 301 and 321 all of 2022 are dismissed. Consequently the appointments issued in favour of the applicants in aforesaid applications on the basis of the common order earlier passed in these O.As. on 11.4.2022 stand set aside.

(ii) Show cause notices impugned in O.A. Nos. 775, 776, 777, 778, 779, 793 & 796 all of 2022 are quashed and set aside.

(iii) The circulars/orders dated 6.5.2022 and 22.7.2022 issued by the Additional Director General of Police (Training & Special Unit) shall stand quashed and set aside in view the dismissal of Original Applications in Group-I.

(iv) The Commissioner of Police and the District Superintendent of Police, as the case may be, of the respective Units shall revise/prepare afresh the select list of the candidates to be appointed as Police Constable Drivers, which shall contain the names of only such candidates, who had applied for the said post in only one Unit as per clause 11.10 of the advertisement dated 30.11.2019, in order of merit and category-wise and issue appointment orders to such candidates in order of merit and category-wise. This exercise shall be completed within 3 weeks from the date of this order. The Secretary, Home Department, shall ensure the compliance.

(v) O.A. Nos. 775, 776, 777, 778, 779, 790, 791, 793, 796 and 830 ALL OF 2022 are allowed in the aforesaid terms.

(vi) There shall be no order as to costs.

(JUSTICE P.R. BORA)
VICE CHAIRMAN

(JUSTICE M.G. GIRATKAR)
VICE CHAIRMAN (J)

(SMT. MEDHA GADGIL)
MEMBER (A)