

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.

of 20

I N

Original Application No.

of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p align="center"><u>O.A. No.553 of 2023</u></p> <p>Dr. Nitin T. Salunkhe ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents Heard Ms. Poonam B. Patil, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. Ld. Advocate for the applicant seeks leave to amend prayer clause (b) of the interim relief by mentioning the date of common representation dated 27.3.2023. Leave granted. Amendment be carried out forthwith and amended copy be served on all respondents.</p> <p>3. The applicant was appointed as Medical Officer, Group-C in District Technical Services. He prays that respondents be directed to issue necessary orders in respect of transfer of the applicant to the post of Group-A Medical Officer, Grade S-20 (56100-177500) and not under Group-B. Ld. Advocate for the applicant submits that applicant has received instructions from the respondents to give options for transfer under Group-B. Ld. Advocate submits that last date for submitting these options is 17.5.2023. However, the applicant seeks benefit of judgment and order dated 4.1.2022 passed by this Tribunal in OAs. No.469/2012 along with 682/2013 & 879/2015 by which applicants in those OAs, who are Medical Officers under District Technical Services placed in Group-B are to be recruited in Group-A retrospectively from the date i.e. 18.7.2013 with all consequential benefits. Ld. Advocate submits that applicant is similarly situated Medical Officer in District Technical Services from Group-B and therefore first he should be transferred in Group-A. Ld. Advocate submits that if at all applicant submits his options as per directions given by the respondents then the applicant will be transferred in Group-B category and there will be many practical difficulties for his subsequent transfer from Group-B to Group-A.</p> <p>4. Ld. CPO submits that the said judgment dated 4.1.2022 of this Tribunal is not yet fully implemented and the process is going on. It is gradually implemented and at this stage no statement off hand can be made about transfer of the applicant to Group-A and how the said judgment can be made applicable to the present applicant. Ld. CPO submits that prayer (b) of interim relief claimed by the applicant is pertaining to common representation dated 27.3.2023. Ld. CPO submits that as per instructions department is unable to decide such common representation. But</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>if representation is made independently then each representation will be decided independently.</p> <p>5. Ld. Advocate for the applicant submits that applicant is ready to make representation as on today to the respondent no.4 and which may be decided.</p> <p>6. In view of the submissions of both the sides, following order is passed.</p> <p>7. If the representation is made today by the applicant to respondent no.4 then the Respondent No.4-Director of Health Services, Mumbai is directed to decide the representations of the applicant on or before 25.5.2023 till 5.00 p.m. and decision be communicated to the applicant on the same day. Till then last date of 17.5.2023 for submitting options under Group-B qua the applicant is extended up to 26.5.2023 till 6.00 p.m. Hence, in between no order be passed in respect of transfer of the applicant.</p> <p>8. The office objections, if any, are to be removed and court fees to be paid, if not already paid. Issue notice before admission returnable on 7.6.2023. The respondents are directed to file reply.</p> <p>9. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.</p> <p>10. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.</p> <p>11. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>12. In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the OA shall be placed on board before the concerned Bench under the caption "For Dismissal" and thereafter on the subsequent date the OA shall stand dismissed.</p> <div data-bbox="1075 1675 1426 1765" style="border: 1px solid black; padding: 5px; text-align: center;">Sd/-</div> <p data-bbox="1075 1765 1426 1854" style="text-align: center;">(Mridula Bhatkar, J.) Chairperson 16.5.2023</p> <p data-bbox="746 1843 794 1877">(sgj)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p align="center"><u>O.A. No.550 of 2023</u></p> <p>Dr. Shrikant D. Kulkarni ..Applicant Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Ms. Poonam B. Patil, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.</p> <p>2. The applicant was appointed as Medical Officer, Group-C in District Technical Services. He prays that respondents be directed to issue necessary orders in respect of transfer of the applicant to the post of Group-A Medical Officer, Grade S-20 (56100-177500) and not under Group-B. Ld. Advocate for the applicant submits that applicant has received instructions from the respondents to give options for transfer under Group-B. Ld. Advocate submits that last date for submitting these options is 17.5.2023. However, the applicant seeks benefit of judgment and order dated 4.1.2022 passed by this Tribunal in OAs. No.469/2012 along with 682/2013 & 879/2015 by which applicants in those OAs, who are Medical Officers under District Technical Services placed in Group-B are to be recruited in Group-A retrospectively from the date i.e. 18.7.2013 with all consequential benefits. Ld. Advocate submits that applicant is similarly situated Medical Officer in District Technical Services from Group-B and therefore first he should be transferred in Group-A. Ld. Advocate submits that if at all applicant submits his options as per directions given by the respondents then the applicant will be transferred in Group-B category and there will be many practical difficulties for his subsequent transfer from Group-B to Group-A.</p> <p>3. Ld. CPO submits that the said judgment dated 4.1.2022 of this Tribunal is not yet fully implemented and the process is going on. It is gradually implemented and at this stage no statement off hand can be made about transfer of the applicant to Group-A and how the said judgment can be made applicable to the present applicant. Ld. CPO submits that prayer (b) of interim relief claimed by the applicant is pertaining to representations made by the applicant. Hence, these representations are first required to be decided and for that some time is required.</p> <p>4. In view of the submissions of both the sides, following order is passed.</p> <p align="right"></p> <p align="right">[P.T.O.]</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
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Tribunal's orders

5. The Respondent No.4-Director of Health Services, Mumbai is directed to decide the representations of the applicant dated 25.4.2023 and 2.5.2023 within 10 (ten) days i.e. on or before 25.5.2023 till 5.00 p.m. and decision be communicated to the applicant on the same day. Till then last date of 17.5.2023 for submitting options under Group-B qua the applicant is extended up to 26.5.2023 till 6.00 p.m. Hence, in between no order be passed in respect of transfer of the applicant.

6. The office objections, if any, are to be removed and court fees to be paid, if not already paid.

7. Issue notice before admission returnable on 7.6.2023. The respondents are directed to file reply.

8. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.

9. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

10. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

11. In case notice is not collected within **seven days** or service report on affidavit is not filed **three days** before returnable date, the OA shall be placed on board before the concerned Bench under the caption "**For Dismissal**" and thereafter on the subsequent date the OA shall stand dismissed.

Sd/-

(Mridula Bhatkar, J.)
Chairperson
16.5.2023

(sg)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders	
	<p style="text-align: center;"><u>16.05.2023</u></p> <p style="text-align: center;"><u>C.A 46/2023 in O.A 931/2022</u></p> <p>Shri Shah Arif Ahmed Gulam Dastagir... Applicant Vs. Shri Eknath Dawale & Ors ... Respondents</p> <p>1. Heard Smt Punam Mahajan, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.</p> <p>2. By order dated 15.2.2023, the Respondents were directed to consider the case of the applicants for promotion to the post of Maharashtra Agriculture Services, Group-A (Superintending Agriculture Officer) as they have earlier passed the departmental examination and other examination during their service tenure within a period of one month from the date of this order.</p> <p>3. Learned counsel submits that the said one month was over on 15.3.2023. However, till date the Respondents have not complied with the order, but they have issued the promotion orders of the others on 5.4.2023. Hence, notice was served by the applicant to the Respondents on 18.4.2023.</p> <p>4. In view of the above, matter is adjourned to 5.6.2023.</p> <div style="text-align: right; margin-right: 50px;"> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center; padding: 5px;">Sd/-</td> </tr> </table> <p style="text-align: center;">(Mridula Bhatkar, J.) Chairperson</p> </div> <p style="text-align: left; margin-left: 50px;">Akn</p>	Sd/-
Sd/-		

16.05.2023

O.A 555/2023

Shri S.G Ranpise ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Mrs Punam Mahajan, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.
2. The applicant, who is working as Sub-Inspector, State Excise, challenges the transfer order dated 4.5.2023 transferring him from Sangli to Kolhapur.
3. Learned counsel for the applicant submits that the applicant has given choice posting by submitting representation dated 3.4.2023 and none of the choice posting has been given to him. The applicant has based his claim on G.R dated 9.4.2018 and the said G.R has been amended by G.R dated 21.11.2022. The applicant is an Ex-servicemen and hence the G.R dated 21.11.2022 is applicable to him. Learned counsel submits that out of the 10 choice posting given by him, the post at Beet no. 2, Pune is vacant. Further learned counsel submits that the applicant has stayed 20 years away from his family and at present the family of the applicant is staying at Tal-Shirur, Dist-Pune.
4. Learned C.P.O submits that the applicant was working at Islampur, Sangli. Learned C.P.O further submits that by letter dated 28.3.2023 choice posting of all the Government servants were called. In the said letter a reference of G.R dated 25.5.2021 is mentioned. Learned counsel submits that the applicant has given choice posting on Executive posts. As per the said G.R dated 25.5.2021, the applicant was given two postings on Executive post, one at Wardha and second at Sangli and therefore, he is not entitled to get Executive posting and in the choice posting he has given all Executive posting, though the applicant is aware of the said G.R.
5. Considered the submissions. The Respondents to verify and find out whether any non-executive post near Tal-Shirur, Dist-Pune is available, especially from the place of his choice posting.
6. For taking instructions whether such non-executive post nearby Tal-Shirur is available, the matter is fixed on 22.5.2023.

Sd/-

(Mridula Bhatkar, J.)
Chairperson

Akn

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No.

of 20

DISTRICT

..... Applicant/s

(Advocate)

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p><u>16.05.2023</u></p> <p><u>M.A 346/2023 in O.A 556/2023</u></p> <p>Shri P.W Renuse & Ors ... Applicants Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Mrs Punam Mahajan, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.</p> <p>2. Learned counsel for the applicants request for time.</p> <p>3. S.O to 5.6.2023.</p> <div style="text-align: right; border: 1px solid black; width: 150px; height: 30px; margin: 10px auto;">Sd/-</div> <p style="text-align: right;">(Mridula Bhatkar, J.) Chairperson</p> <p>Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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	<p align="center"><u>M.A. No.345 of 2023 in O.A. No.281 of 2023</u></p> <p>The Secretary, MPSC ..Applicant (Ori.Res.No.3)</p> <p align="center">Vs.</p> <p>Pravin U. Jadhav & 11 Ors. ..Ori.Applicants The State of Maharashtra & Anr. ..Respondents</p> <p>Heard Ms. S.P. Manchekar, learned Chief Presenting Officer for the Applicant-original Respondent No.3. None for Respondents-original Applicants.</p> <p>2. The applicant has moved this MA for modification of order dated 31.3.2023 passed by this Tribunal in OA No.281/2022 by which the Division Bench has directed the respondent-MPSC to accept the online applications of the original applicants and similarly situated other candidates for the post of Assistant Regional Transport Officer (ARTO).</p> <p>3. Ld. CPO submits that the prayer clause (c), as modified, is allowed by order dated 31.3.2023. Ld. CPO submits that the prayer clause (c) was modified as, "and similarly situated other candidates for the post of ARTO". However, though merely prayer clause (c) was restricted to the applicants only, DB of the Tribunal while granting interim relief has made interim relief applicable to all the similarly situated candidates i.e. holding degree in Production Engineering for the post of ARTO. Ld. CPO submits that therefore it is difficult to identify such similarly situated candidates. Hence, by modification the said order is to be made applicable only to the applicants qua applicants and not to all the similarly situated candidates.</p> <p>4. Interim order is passed on 31.3.2023. The respondents should have moved the application immediately for modification when DB at Aurangabad was available. This MA is moved in vacation. In view of the date of the order, there is no urgency as it is. However, as the examination is scheduled on 4.6.2023, some action is required to be taken by the respondents for compliance of</p>

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	<p>the said order. Prayer for modification of interim order cannot be allowed as the application for modification is moved not at proper time when the concerned DB was available at Aurangabad. But it is moved during vacation. Moreover, it appears that DB has passed the order in respect of extending the interim relief to the candidates similarly situated like applicants in view of the ratio laid down in the case of <u>State of U.P. & Ors. Vs. Arvind Kumar Srivastava, 2015(1) (SCC 347.</u></p> <p>5. Thus, it will be appropriate on the part of the MPSC to issue corrigendum for compliance of the said interim order by allowing similarly situated candidates to submit applications for appearing in the examination for the post of ARTO and accordingly in short time span the MPSC may take steps speedily. Hence, MA is disposed off.</p> <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(Mridula Bhatkar, J.) Chairperson 16.5.2023</p> <p>(sgj)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
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..... Applicant/s

(Advocate

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The State of Maharashtra and others

..... Respondent/s

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	<p style="text-align: center;"><u>16.05.2023</u></p> <p style="text-align: center;"><u>O.A 554/2023</u></p> <p>Shri F.M. Shaikhj ... Applicant Vs. The State of Maharashtra & Ors ... Respondents</p> <p>1. Heard Mrs Punam Mahajan, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.</p> <p>2. The applicant is working as Supply Inspector, Akkalkot at Collector Office, Solapur. The applicant wants that he should be transferred from Solapur as he has completed his tenure of 3 years and he was already working at the said place for almost 5 years and he is due for transfer. Learned counsel points out that in the list dated 31.5.2018, the name of the applicant is appearing at Sr. No. 45, when he was working at Malshiras and he was transferred to Akkalkot on his request. Thus, he has completed 3 years in May, 2021 and will be completing 5 years on 31.5.2023. Learned counsel for the applicant further submits that a proposal is sent by the Department for transfer which is appearing at Annexure-IV, wherein the applicant of the applicant is appearing at Sr. no. 2 and his tenure at Solapur is shown as 4 years, 10 months and 23 days. Learned counsel for the applicant further points out to letter dated 10.5.2023, Annexure-V, which is the list of Officers who are due for transfer and the name of the applicant is not appearing in the said list. Learned counsel for the applicant submits that he has given representation to the District Collector, Solapur on 11.5.2023. Learned counsel relies on clause-2 in Schedule-I of the guidelines of transfer dated 9.4.2018, by which it is obligatory on the part of the Respondent-State to publish the list of the Government servants who are due for transfer on the basis of their stationed headquarters. The applicant has submitted another representation on 14.5.2023, which was received by the Respondents on 15.5.2023, wherein he has given his choice posting.</p> <p>3. Learned C.P.O pointed out to Annexure-III dated 3.8.2022, i.e., Revised Staffing Pattern, wherein the name of the applicant is shown at Sr. No. 2. This order was issued pursuant to the Staffing Pattern prepared by the Government on 4.7.2022. Learned C.P.O pointed out to Annexure-A, which reveals that by this order the</p>

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	<p>applicant was retained on the same post at Akkalkot and he shall continue on the same post, till another employee from Supply Department is made available. Pursuant to that order dated 3.8.2022 was issued by the Collector.</p> <p>4. Whether to be transferred is a right of any Government servant, as the authority has always the power to retain a person if the services are required. The submissions of the learned counsel for the applicant that a Government servant gets right to be transferred by virtue of G.R dated 9.4.2018.</p> <p>5. Prima facie, I am of the view that this a facility to be made available to the Government servant to give their choice/options so that the transfer can be regulated and so that Government is required to publish the list of officers, who are due for transfer. The issue is whether Government can take a decision that a person may be due for transfer after 3 years, but he may be retained as his services are required.</p> <p>6. S.O to 22.5.2023.</p> <p style="text-align: right;">Sd/-</p> <p style="text-align: right;">(Mridula Bhatkar, J.) Chairperson</p> <p>Akn</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No.

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DISTRICT

..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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16.05.2023

M.A 357/2023 in O.A 559/2023

Shri B.S Shinde & Ors ... Applicants

Vs.

The State of Maharashtra & Ors ... Respondents

1. Heard Shri R.M Kolge, learned advocate for the applicants and Ms Swati Manchekar, learned C.P.O for the Respondents.

2. Misc Application to sue jointly is allowed, subject to payment of Court fees, if not already paid.

Sd/-

(Mridula Bhatkar, J.)
Chairperson

Akn

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

16.05.2023

O.A 559/2023

Shri B.S Shinde & Ors ... Applicants
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri R.M Kolge, learned advocate for the applicants and Ms Swati Manchekar, learned C.P.O for the Respondents.

2. The applicants who had applied for the post of Police Constable Driver at multiple places have moved this application for the relief which was granted earlier by this Tribunal by order dated 24.4.2023 in O.A Nos 538 & 539/2023, based on the order dated 24.4.2023 passed by the Hon'ble Bombay High Court in W.P 5299/2023 & Ors, Amit H. Daphal & Ors Vs. State of Maharashtra & Ors.

3. Learned counsel for the applicants submits that both the applicants joined the service 15.7.2022 and they are in service and therefore, their services should not be terminated. Prima facie, the balance of convenience lies in favour of the applicants.

4. Learned C.P.O submits to the order of the Court in the light of the order of the Hon'ble High Court dated 24.4.2023 in W.P 5299/2023.

5. Considered the submissions. As the applicants are similarly situated like the applicants in O.A 538 & 539/2023, the same order is passed.

"4. In view of the order dated 24.4.2023 passed by the Hon'ble Bombay High Court in W.P Nos 5299/2023 & Ors, Amit H. Daphal & Ors Vs. State of Maharashtra & Ors, if the present applicants are in service, then status quo to be maintained as on today, qua the applicants. Learned C.P.O to provide the names of the persons who are going to be affected by the status quo order to the learned counsel for the applicants."

6. S.O to 22.6.2023.

Sd/-

(Mridula Bhatkar, J.)
Chairperson

Akn

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p style="text-align: center;"><u>O.A. No.541 of 2023</u></p> <p>Ravindra R. Sapkal & 11 Ors. ..Applicants Vs. The State of Maharashtra & Ors. ..Respondents</p> <p>Heard Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents. None for the Applicants.</p> <p>2. Today the matter is fixed for taking affidavit of Ms. Tejaswi Satpute, Dy. Commissioner of Police, Mumbai. Ld. CPO files affidavit dated 15.5.2023 of Ms. Tejaswi Balasaheb Satpute, Dy. Commissioner of Police, HQ-2, Mumbai. Ld. CPO wants to point out certain important facts in respect of transfer of Police Constable from Mumbai to other district as general transfers are going on in this month.</p> <p>3. As the matter is already posted on 20.6.2023 the Ld. CPO was directed to file affidavit giving information about how many posts are vacant in Mumbai city. The protection granted to the applicants thus is available till 20.6.2023. It is informed that under Commissioner of Police, Mumbai total posts of Constable is 40,623 from Police Constable to Assistant Sub-Inspector. Out of that 9289 posts are vacant on account of various reasons i.e. due to COVID-19 Pandemic, retirement, death, transfers, promotions etc. Besides this 2718 posts from Wireless and Motor Transport are vacant. It is mentioned that from April to December, 2023 total 844 Constables are going to retire. It is further informed that the Government has started special drive for recruitment of Police Constables in State of Maharashtra and Mumbai and 18000 students have participated and the entire process will take two months time to complete the process till recommendation as medical test is not yet over. Thereafter recommended candidates are required to be send for training of nine months and the accommodation capacity of training centre in Maharashtra has 8000 students at a time. So the training will be in 2 to 3 batches for 9 months each. Thus it will take nearly two years to till up all the posts in Maharashtra and Mumbai. Thus, it is stated that it is not possible to transfer the applicants or any appointments till December, 2024 as the first batch of newly recruited Police Constables will be available in December, 2024 and hence the transfer of such Constables like applicants will be considered and will be made by batches from January, 2025.</p> <p>4. S.O. to 20.6.2023. Sd/-</p> <p style="text-align: right;">(Mridula Bhatkar, J.) Chairperson 16.5.2023</p> <p>(sgj)</p>