

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NOS 557 & 676 OF 2021

1. Shankar Mahadeo Mutekar)
Age. 37 years, Occ. Service,)
R/at. Satoli, Tal. Karmala,)
Dist. Solapur)
2. Sanjay Baburao Mohite)
Age. 39 years, Occ. Service,)
R/at. C/403, Shrinath Nagar CHS,)
Shiv-Vallabh Road, Ashokvan,)
Dahisar (E), Mumbai)
3. Ankush Vishnu Nawadkar)
Age. 39 years, Occ. Service,)
R/at. 04, Panchashray Bldg,)
Kisan Nagar No. 3, Room No. 16,)
Wagle Estate, Thane (W), 400604)
4. Mahesh Kalyansing Thakur)
Age. 38 years, Occ. Service,)
R/at. Pahadsingpura, Plot No. 12,)
Begaumpura, Aurangabad- 431001)
5. Raju Gajanan Chaudhari)
Age. 44 years, Occ. Service,)
R/at. Room No. 2304, Bldg No. 59/E,)
Near MHADA Tower, Panchratna Co-op Soc.,)
Charkop, Kandivali (W), Mumbai)
6. Pankaj Popatrao Bhople)
Age. 41 years, Occ. Service,)
R/at. 304, 3rd Floor, Shankheshwar Presidency,)

- Tawri Pada, Near RTO, Kalyan (W), Dist. Thane)
7. Pramod Pandurang Salokhe)
Age. 38 years, Occ. Service,)
R/at. Room No. 5, Building No. 37,)
Shama Quarters, Sir Pochkhanwala Marg,)
Worli, Mumbai 400018)
8. Medha Lawoo Rane)
Age. 41 years, Occ. Service,)
R/at. Post 561 Guruyog, Halwal)
(Pimpalwadi) Tal-Kankawli,)
Dist. Sindhudurg)
9. Sandip Nana Patil)
Age. 40 years, Occ. Service,)
R/at. 3, B, Suyog Nagar, Kokni Hill,)
Nandurbar, Tal. Dist. Nandurbar)
10. Nitin Tukaram Kadam)
Age. 38 years, Occ. Service,)
R/at. Room No. 9, Building No. 37,)
Worli Police Camp, Sir Pochkhanwala)
Road, Mumbai 400030)
11. Nilesh Digambar More)
Age. 40 year, Occ. Service,)
R/at. Shree Mahavir Nagar CHS,)
B-2/23, Opposite Icon Hospital,)
Manpada Road, Dombivli (E), Thane 421202)
12. Sachin Maganrao Nikam)
Age. 38 years, Occ. Service,)
R/at. B/15, Flat No. 403,)
Mangel Bhairav, Nanded City,)
Sinhgad Road, Pune)
13. Ajay Dattatray Hanchate)
Age. 41 years, Occ. Service)
R/at. 94, Somwar Peth,)

- Solapur 413002)
14. Dnyaneshwar Jagannath Badgujar)
Age. 40 years, Occ. Service,)
R/at. Pimpalgaon (Hareshwar),)
Tal. Pachora, Dist Jalgaon 424203)
15. Dhanraj Kisan Chaudhari)
Age. 45 years, Occ. Service)
R/at. B/83, Railway Police Quarter,)
S. B. Road, Behind Sujami Narayan Mandir)
Dadar (E), Mumbai 400014)
16. Dinesh Gopichand Patil)
Age. 38 years, Occ. Service,)
R/at. D7/23, Andes CHS, Godrej Hill,)
Khadakpada Kalyan (W), 421301)
17. Jeevan Shantaram Mohite)
Age. 36 years, Occ. Service,)
R/at. D/208, Windsor Country,)
Ambegaon BK, Pune 411046)
18. Nitin Narayan Mayekar)
Age. 35 years, Occ. Service,)
R/at. B/803, New Santacruz Police Line,)
Santacruz (W), Mumbai 400056)
19. Bharat Kesarimal Pachole)
Age. 44 years, Occ. Service,)
R/at. Qtr No. 11, N-10 Cidco Police Colony,)
Aurangabad 431003)
20. Rakesh Laxman Dange)
Age. 38 years, Occ. Service,)
R/at. House-2230, Harishchandra Nagar,)
Section-28, Ashele Gaon Road,)
Ulhasnagar, Thane 421004)
21. Prasad Ganpatrao Gajjewar)
Age. 39 years, Occ. Service,)

R/at. Flat No. 401, D Wing,
Devrai Apartments, Kiwale Road,
Kiwale, Pune 412101

22. Vibhav Dattatraya Pethkar

Age. 49 years, Occ. Service,
R/at. Flat No. 14, Saikiran Society,
Pushpak Nagar, Lokhande Mala,
Jail Road, Nashik Road, Nashik 422101

23. Vijay Ramnath Dumbre

Age. 41 years, Occ. Service
R/at. Room No. 303, B Wing,
Police Colony, Near Ghatkopar Police Station,
L.B.S. Road, Ghatkopar (W), Mumbai 400086

24. Kishor Tukaram More

Age. 41 years, Occ. Service,
R/at. A/404, Vinayakdham CHS,
Siddhivinayak Nagar, Pandurangwadi,
Mira Road (E), Dist. Thane 401104

25. Pushparaj Vinayak Surve

Age. 40 years, Occ. Service,
R/at. A/31, Savitri Dham CHS, W.S.Road,
Dahisar (E), Mumbai 400068

26. Sujit Balaram Mundhe

Age. 36 years, Occ. Service
R/at. Neelsiddhi Garden CHS, B-704,
Near Kings Electronics, Takka Gaon Road,
Panvel, Raigad – 410206

27. Prasad Madan Shekadar

Age. 42 years, Occ. Service,
R/at. Prabhat Upvan Co-op H.S.,
Flat No. 704, A Wing, Gawand Baug,
Pokhavan Road-II, Thane (W) 400610

28. Sachin Namdev Karande

Age. 38 years, Occ. Service,
R/at. Akshay Palace, A Wing,
Room No. 18, 2nd Floor,
Near Warje Bridge, Warje Pune

29. Chhabu Bhagchand Berad

Age. 41 years, Occ. Service,
R/at. Taradgavhan, Tal. Shrigonda,
Dist. Ahmednagar 413701

30. Aniket Prakash Sawant

Age. 38 years, Occ. Service,
R/at. 44/07, Worli Police Camp,
Mumbai

31. Amol Sudam Khonde

Age. 37 years, Occ. Service,
R/at. Samraat Symphony, Flat No. G-502,
Nagreg Nagar, Near Karma Residency and
Hotel Seven Heaven, Pathardi Phata, Nashik

32. Shirish Santosh Chaudhari

Age. 45 years, Occ. Service,
R/at. 1703, Spring Bldg, Season Complex,
Near Sandip Hotel, Khadakpada,
Kalyan (W), Dist. Thane 421301

33. Sudheer Narayan Torat

Age. 42 years, Occ. service
R/at. Room No. 1, Plot No. 6,
Shiv-Triveni Satsang-CHS., Sanpada Sector 10,
Navi Mumbai 400705.

34. Mahesh Sakharam Tawde

Age. 41 years, Occ. Service,
R/at. Pavanputra CHS, Shiv Vallabh Road,
Ashokvan, Dahisar (E), Mumbai 400068

35. Dattajirao Appasaheb Pawar

Age. 43 years, Occ. Service,

R/at. AL/04, B. No. 9, Room No. 10,
Sahajeevan Society, Sector 16,
Airoli, Navi Mumbai

36. Kavikant Ramdasrao Chaudhari

Age. 40 years, Occ. Service,
R/at. Flat No. 201, Gajanan Apartment III,
Prem Nagar Society, Arya Nagar, Koradi
Road, Nagpur

37. Vinayak Gopal Patil

Age. 40 years, Occ. Service,
R/at. F-301, Plot No. 2 & 21,
Suraj Complex, Sector – 36, Kamothe,
Ta. Panvel Dist. Raigad – 410209

38. Sainath Ananta Kumatkar

Age. 40 years, Occ. Service,
R/at. Room No. 2, N. T. Gaikwad Chawl,
Kajuwadi, Behind Louswadi, Thane 400604

39. Virnath Saudagar Mane

Age. 36 years, Occ. Service,
R/at. Post Yakatpur (B), Tal. Ausa,
Dist. Latur 413520

40. Prashant Hanumant Sabale

Age. 37 years, Occ. Service,
R/at. Korhale Bk, Tal. Baramati, Dist. Pune

41. Hemant Subhash Todkar

Age. 39 years, Occ. Service,
R/at. Flat No. 16, Kunal Residency,
Dindori Road, Behind Essar Petrol Pump,
Mhasrul, Nashik

42. Shivsambh Ishwar Swami

Age. 41 years, Occ. Service,
R/at. G.No. 149, P. No. 66,
Sinchan Nagar, Taroda Naka,

Nanded, Maharashtra 431605

43. Anil Lotan Wagh

Age. 44 years, Occ. Service,

R/at. Flat No. 301, Shriji Aastha Building,

Indiranagar, Nashik

...Applicants

V/s.

1. The State of Maharashtra

Through Secretary,

Home Department, Mantralaya,

Mumbai 400032

2. The Secretary

General Administration Department,

Mantralaya, Mumbai 400032

3. The Secretary

Law and Judiciary,

Mantralaya, Mumbai 400032

4. The Director General of Police

Shahid Bhagat Singh Road,

Colaba, Mumbai - 400005

5. The Secretary

Maharashtra Public Service Commission

5th, 7th and 7th Floor

Cooprej Telephone Exchange Bldg,

Maharshi Karve Marg,

Cooprej, Mumbai 400021.

... Respondents

ORIGINAL APPLICATION NO. 676 OF 2022

1. Santosh Budha Patil

Age. 40 years, Occ. Service,

R/at. Flat No. 12, Madhuwanti Apt.,

Right Bhusari Colony, Kothrud, Pune

2. Ashish Sahebrao Rohi

Age. 39 years, Occ. Service,

R/at. PT No. 93, Kalmegh Nagar,
Near CRPF Gate, Hingna Road,
Nagpur 440016

3. Amol Dilip Dond
Age. 38 years, Occ. Service,
R/at. Flat No. 202, Payal Pallavi Society,
New Manishnagar, Nagpur 15
4. Shailesh Sadashiv Suryawanshi
Age. 39 years, Occ. Service,
R/at. 301/ A Wing, Sai Kunj Society,
Sector-6, Sarsole, Plot No. 291-300,
Nerul (W), Navi Mumbai 400706
5. Rajkumar Kashiram Dunage
Age. 39 years, Occ. Service
R/at. Room No. A2, 202, Galaxy panache Bldg,
Vijapur Road, Solapur
6. Avinash Ramdas Mahajan
Age. 4 years, Occ. Service,
R/at. 403, Bhaker Tower, Next to Police
Pblic Schol, Kharker Ali, Thane (W) 400601
7. Vijay Bhaskar Kajari
Age. 41 years, Occ. Service,
R/at. Shree Krishna Heights, B Wing,
302, Hendrepada, Badlapur (W), Thane
8. Rameshwar Dhonduji Kayande
Age. 44 years, Occ. Service,
R/at. Near Hanuman Temple,
Anand Nagar, Pathardi, Ahmednagar
9. Abdul Majid Usman Shaikh
Age. 41 years, Occ. Service,
R/at. New Block No. 12/3, Police Head
Quarters, Solapur, Dist. Solapur 413005
10. Anand Narayan Shahane

Age. 41 years, Occ. Service,
R/at. Flat No. 203, Sai Park, Sector-12,
New Panvel

11. Gaffar Khalil Shaikh

Age. 41 years, Occ. Service,
R/at. Gandhi Chowk, Police Station Quarter No. 1,
Gandhi Chowk, Latur – 413512

12. Ravindra Bhau Utekar

Age. 50 years, Occ. Service,
R/at. 21 PSI Building, Railway Police Compound,
Sir Bhalchandra Road, Dadar (E), Mumbai 14

13. Khandu Murlidhar Ghuge

Age. 44 years, Occ. Service,
R/at. 3/18, Tardeo Police Line,
M. P. Mill Compoud, Nearby Tardeo
Police Station, Mumbai 400032

14. Suresh Pandurang Dange

Age. 43 years, Occ. Service
R/at. Block No. 14, Palak Society,
Omkar Lane, Lane No. 3,
Near Indane Gas Agency, Pimple Gurav,
Pimpri Chinchwad, Pune

15. Sunil Baburao Dahibhate

Age. 47 years, Occ. Service,
Flat No. 702, Building No. 4B, Ravi-Kiran CHSL,
Near Shailendra School, NH-08, Shailendra Nagar,
Dahisar (E), Mumbai 400068

16. Hanmant Gangadharrao Panchal

Age. 45 years, Occ. Service,
R/at. Raosaheb Nagar, Plot No. 16,
(C/o. Vishwas Patil) Near Visava Corner,
Jintur Road, Parbhani, Dist. Parbhani – 431401

17. Machindra Ramhari Kekan

- Age. 42 year, Occ. Service,
R/at. 101, Deep Complex, Plot No. 30-31,
Sec-28, Nerul Navi Mumbai
18. Ashok Chandrabhan Damale
Age. 39 years, Occ. Service
R/at. A/207, Gangadhar C.H.S., Panvel,
Navi Mumbai
19. Umesh Nanasaheb Londhe
Age. 43 years, Occ. Service,
R/at. Flat No. 201, Siddhiraj Housing Soc.,
Chilekarnagar, Kaspatewasti, Wakad,
Near Chhatrapati Chowk, Pune 411057
20. Ajit Vilas Patil
Age. 42 years, Occ. Service
R/at. Room No. 19, "A" Building,
Borivali Police Officer Quarters,
Borivali (W), Mumbai
21. Pravin Narayan Fanse
Age. 40 years, Occ. Service,
R/at. E/103, Nakoda Apt., Dawale Nagar,
Opp. Lokmanya Depot, Lokmanya Nagar,
Thane (W), 400606
22. Sandeep Bhagwan Patil
Age. 38 years, Occ. Service
R/at. Anand nagar, Varsha Building,
Near Indira Garden, Devpur, Dist. Dhule
23. Anwar Usman Mujawar
Age. 42 years, Occ. Service,
R/at. 19/1, Muslim Galli, Jawala,
Tal. Jamkhed, Dist. Ahmednagar – 413201
24. Purushottam Ajabrao Deshmukh
Age. 46 years, Occ. Service,
R/at. Mandapgaon, Po. Deulgaon Mahi,

Tal. Deulgaon Raja, Dist. Buldhana – 443206

25. Santosh Shankar Rasam

Age. 45 years, Occ. Service,
R/at. Near BDD Chawl, Chawl No. 18,
Room No. 22, M.I. Phule Road, Naigaon,
Dadar (E), Mumbai 400014

26. Santosh Dattatray Jadhav

Age. 44 years, Occ. Service,
R/at. B-204, Shankar Apt, Plot No. 8,
Sec-12, Kharghar, Navi Mumbai

27. Deepak Abaji Kadam

Age. 42 years, Occ. Service,
R/at. C/304, Ashapuradham Co-op Hsg
Soc. Ltd., Sector-5, Plot No. 23, Ghansoli,
Near Ghansoli Railway Station, Navi Mumbai 400701

28. Pramod Panjabrao Chaudhari

Age. 42 years, Occ. Service,
R/at. P. No. 18, Balaji Nagar (Ext),
Nagpur – 440027

29. Rahul Baburao Karbhari

Age. 41 years, Occ. Service,
R/at. Post Jewali (S), Tal. Lohara,
Dist. Osmanabad – 413608

30. Vikas Kisan More

Age. 40 years, Occ. Service,
R/at. 101, A Wing, Police Officer
Quarters, Gulistan Compound, Behind
Ghatkopar Police Station, Ghatkopar (W),
Mumbai 400086

31. Abhay Bhaskar Dandgavhal

Age. 45 years, Occ. Service
R/at. Lane No. 5, Gaanan Nagar,
Near Rundlik Nagar, Aurangabad – 431005

32. Sonu Suresh Dalavi
Age. 42 years, Occ. Service
R/at. D.102, Ghatkopar Police Line,
Gulistan Compound, LBS Marg,
Charkop (W), Mumbai 400086
33. Laxman Baliram Dhengle
Age. 44 years, Occ. Service,
R/at. 5th Floor, Flat No. 18,
Building No. B2, Kumar Parag Society,
S. No. 41/8A, Wanvadi-Pune 411040
34. Sachin Namdev Bendre
Age. 45 years, Occ. Service,
R/at. Aadarsh Nagar, Near Amar Plaza,
Dhule Road, Chalisgaon, Dist. Jalgaon
35. Ganesh Arjun Mundhe
Age. 39 years, Occ. Service,
R/at. Ukadgaon, Tal. Barshi,
Dist. Solapur 413404
36. Pramod Ramsing Pardeshi
Age. 49 years, Occ. Service,
R/at. Room No. 202, 2nd Floor,
Bhaskar Bldg, New Police Line,
Kharkot Aali, Behind Thane Police School,
Thane 400601
37. Sunita Vishwanath Kale
Age. 41 years, Occ. Service,
R/at. Udyog Indrakamal Apt, Flat No. 301-G-2,
(C/o. Prakash Shelke), Near MIT College,
Beed Bypass Road, Aurangabad
38. Laxman Bapu Karande
Age. 44 years, Occ. Service,
R/at. B2/16, Police Officers Quarters,
Near Borivali Court, S. V. Road,

Borivali (W), Mumbai 92

39. Dilip Namdeo Khedkar

Age. 43 years, Occ. Service,

R/at. 9/Ganraj Apartment, Devpur, Dhule.

40. Krishna Rajendra Tiwari

Age. 40 years, Occ. Service,

R/at. Plot No. 38, Samadhan Nagar,

Katol Road, Nagpur 440012

41. Saheba Kundlik Pote

Age. 45 years, Occ. Service

R/at. S.N. 48/1B, Susmita Apartment,

Sainagari Lane 6, Near New Sai Baba Temple

Nagar Road, Chandan Nagar, Kharadi Pune 41101 ...Applicants

V/s.

1. The State of Maharashtra
Through Secretary,
Home Department, Mantralaya,
Mumbai 400032
2. The Secretary
General Administration Department,
Mantralaya, Mumbai 400032
3. The Secretary
Law and Judiciary,
Mantralaya, Mumbai 400032
4. The Director General of Police
Shahid Bhagat Singh Road,
Colaba, Mumbai - 400005
5. The Secretary
Maharashtra Public Service Commission
5th, 7th and 7th Floor
Cooprej Telephone Exchange Bldg,
Maharshi Karve Marg,
Cooprej, Mumbai 400021.

... Respondents

Shri S.S Dere, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

RESERVED ON : **15.09.2022**

PRONOUNCED ON : **23.09.2022**

PER : **Justice Mridula Bhatkar (Chairperson)**

J U D G M E N T

1. The 43 applicants in O.A 557/2021 and 41 applicants in O.A 676/2021, seek relief that the Respondents be directed to assign deemed date of promotion in the cadre of Police Sub Inspector. The applicants in O.A 676/2021, who are working as P.S.I have passed the Limited Departmental Competitive Examination 2006, and their names were recommended vide order dated 10.11.2009. The applicants in O.A 557/2021, who are working as P.S.I have passed the Limited Departmental Competitive Examination 2008, and their names were recommended vide order dated 9.3.2011. However, they were not appointed on the basis of merit at the relevant time, but all these applicants were appointed subsequently as the promotions were given to the post of P.S.I, pursuant to the reservation in promotion policy adopted by the Respondent-State. The said policy of reservation in promotion was made applicable subject to the pending Writ Petition No. 8452/2004 before the Hon'ble High Court. Thus, all the applicants were placed below the candidates belonging to the reserved category who were given the promotion.

2. Learned counsel for the applicants has submitted that he limits his final relief to the extent that the applicants be granted deemed date of promotion to the post of P.S.I when their other batchmates of L.D.C.E 2006 & 2008 respectively were promoted in the reserved category. He based his prayer solely on the ratio laid down by the Hon'ble High Court dated 4.8.2017, in the case of STATE OF MAHARASHTRA & ORS VIJAY GHOGRE & ORS, W.P 2797/2015.

3. Learned counsel submits that the process of promotion from the post of Police Sub Inspector to the post of Police Inspector has commenced and the Respondent-State is likely to issue the orders of promotion to fill up the post of Police Inspector any time soon. Therefore, the present Original Applications have been filed. Initially, we have stayed the process of promotion to the post of P.S.I, by order dated 9th June, 2022. However, the Respondent-State approached the Tribunal and requested to vacate the interim relief granted by this Tribunal by order dated 9th June, 2022, as the post of Police Inspectors are very important and there are many vacancies.

4. Both the Original Applications are filed by the applicants on the basis of the decision of the Hon'ble High Court dated 4.8.2017, in the case of STATE OF MAHARASHTRA & ORS VIJAY GHOGRE & ORS, W.P 2797/2015, which is as follows:-

“(i) The impugned judgment and order dated 28 November 2014 of Maharashtra Administrative Tribunal to the extent it strikes down the Reservation Act is set aside and the issue of constitutional validity of the Reservation Act is kept open for determination in appropriate case and on an appropriate occasion.

(ii) The Government Resolution dated 25th May 2004 is struck down to the extent it makes provisions for reservation

in matters of promotions in favour of Scheduled Caste, Scheduled Tribes, De-Notified Tribes (A), Nomadic Tribes (B), Nomadic Tribes (C), Nomadic Tribes (D) and Special Backward Classes being ultra virus Article 16 (4A) of the Constitution and contrary to the law laid down in M. Nagraj case.”

The said order was challenged by the State of Maharashtra before the Hon’ble Supreme Court in State of Maharashtra & Ors Vs. Vijay Ghogre & Ors, S.L.P No. 28306/2017. However, no stay was granted by the Hon’ble Supreme Court. Similar challenges were given in other States and some of those Petitions are also pending before the Hon’ble Supreme Court. The Hon’ble Supreme Court lastly in the matter of JARNIL SINGH & ORS Vs LACHHMI NARAIN GUPTA & ORS, in C.A 629/2022 arising out SLP (C) 30621/2011, by order dated 28.1.2022, while upholding the ratio laid down in M. NAGRAJ’s case (2006) 8 SCC 212, held the basic requirement for providing reservation in promotions. The Hon’ble Supreme Court also held that for the purpose of collection of quantifiable data for representation of Scheduled Caste and Scheduled Tribes for the purpose of providing reservation in promotion, cadre, which is part of a “group” is the unit and the data has to be collected with respect to each cadre and it also upheld the conclusion in B.K PAVITRA-2, dated 10th May, 2019 in M.A 1151/2018 in Civil Appeal no 2368/2011, wherein approving the collection of data on the basis of “group” and not cadre is contrary to the law laid by the Hon’ble Supreme Court in the case of M. NAGRAJ (supra) & JARNAIL SINGH (supra). Thus, the challenge given by the Respondent-State in VIJAY GHOGRE’s case still pending before the Hon’ble Supreme Court.

5. The promotions were given in the cadre of P.S.I, subject to the outcome of the decision in VIJAY GHOGRE’s case pending before the Hon’ble Supreme Court. However, during the pendency

of the said case, the candidates from the reserved category were promoted and resultantly the meritorious candidates from the open category were pushed down. Though they were given the promotions to the post of P.S.I, subsequently their seniority suffered. It has adversely affected subsequent future promotions of the applicants to the present post of P.I. As the applicants were appointed later, they are not coming within the zone of consideration for promotion to the post of Police Inspector.

6. The applicants had challenged the order dated 8.8.2022 of modification of the interim order of this Tribunal dated 9.6.2022 by filing Writ Petition No. 9803/2022 before the Hon'ble Bombay High Court. The Hon'ble Bombay High Court by order dated 18th August, 2022 in the said Writ Petition, has set aside the order of modification of the stay granted by this Tribunal and maintained the earlier order of stay to the post of Police Inspector with directions that the Tribunal to decide matter at the earliest. Further the Hon'ble High Court directed as under:-

“We request to the MAT to dispose of the OA finally at the earlier and to do so without being in any way influenced by the impugned order, especially its observations in paragraphs 8 to 13. As regards paragraph 13, we restore until final disposal of the OA the previous interim/ad-interim order of 9th June, 2022.”

It also held as follows:-

“We do not see how the MAT could have speculated as to a likely outcome in the Supreme Court and effectively bypassed the otherwise binding decision of this Court in Vijay Ghogre.”

7. In view of this order and the specific directions given by the Hon'ble High Court, we heard these Petitions finally.

8. Learned C.P.O while opposing this prayer has submitted that the Respondent-State is bound by the order passed by the Hon'ble Bombay High Court in the case of VIJAY GHOGRE. It is true that stay is not granted by the Hon'ble Supreme Court. The Respondent-State, therefore, has issued the G.R dated 7.5.2021 that the policy of reservation in promotion will not be adopted. However, the decision of the Hon'ble Supreme Court in this matter is awaited for want of quantifiable data. She has submitted that to complete the quantifiable data is a requirement in view of the judgment of the Hon'ble Supreme court in case of JARNAIL SINGH & ORS (supra). Therefore, the Respondent-State is collecting the quantifiable data and it will be completed soon. Thus, the persons who are promoted earlier by giving the benefits of reservation, their position will not be disturbed by demoting them, in view of second clause of G.R dated 7.5.2021. Affidavit is filed to that extent.

9. Though, we understand the administrative difficulty of the Respondent-State in correcting their own reservation policy which was adopted under section 5 of the Reservation Act of 2004, we are bound by the judgment of the Hon'ble Bombay High Court in VIJAY GHOGRE's case and especially in view of specific directions given by the Hon'ble High Court by order dated 18.8.2022.

10. We, hereby, reproduce for the sake of convenience of the Respondent-State the operative portion in the case of VIJAY GHOGRE's case:-

“3. It is clarified that since GR dated 25th May 2004 is struck down, consequential direction is issued to the State Government to take necessary correction steps/measures in respect of promotion already granted within 12 weeks from today which direction is necessitated in view of the order

dated 28th March 2008 of the Supreme Court modifying the interim order of this Court dated 9th March 2007, by which the promotions were made subject to the final decision in the old Writ Petition No. 8452 of 2004.”

11. As on today, these two orders are not complied with and the orders are not stayed by the Hon’ble Supreme Court. Therefore, the Respondent-State is bound to obey the law laid down by the Hon’ble Bombay High Court and so also implement the same in toto.

12. In view of the above we pass the following order:-

(a) The Respondents are directed to grant deemed date of promotion to the applicants in the cadre of P.S.I of the candidates selected in the Limited Departmental Competitive Examination, 2006, pursuant to the recommendation dated 10.11.2009 and Limited Departmental Competitive Examination, 2008, pursuant to the recommendation dated 9.3.2011, Junior promoted and accordingly grant consequential service benefits such as pay, arrears of pay, seniority and further promotion if any.

(b) The said order to be complied by 30th November, 2022.

(c) OAs are allowed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 23.09.2022

Dictation taken by : A.K. Nair.

D:\Anil Nair\Judgments\2022\01.09.2022\COPY of FORMAT Chairperson and Member, A.doc