

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.**CONTEMPT PETITION NO. 01/2022**
IN
TRANSFER APPLICATION NO. 02/2021
WITH
M.A. NO. 337/2021 IN T.A. NO. 02/2021

DIST. : AURANGABAD

1. Smt. Samiksha D/o Ramakant Chandrakar,)
Age:-50 years, Occu. : Service as,)
Deputy Commissioner (EGS), Divisional)
Commissioner (Revenue)'s office, Aurangabad)
R/o Plot No. 363, Sector -E, N-1,)
CIDCO, Aurangabad 431003.)
2. Pandurang Ramrao Kulkarni,)
Age:-55 years, Occu. : Service as)
Deputy Commissioner (Rehabilitation),)
Divisional Commissioner (Revenue)'s)
office, Aurangabad.)
R/o Plot No. 20, 'Indradhanu',)
Opp. Kasliwal Corner, N-2, CIDCO,)
Aurangabad - 431003.)

PETITIONERS**V E R S U S**

- 1) **Dr. Nitin Karir, IAS,**)
Additional Chief Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai – 400 032.)
- 2) **Smt. Sajata Saunik, IAS,**)
Additional Chief Secretary,)
General Administration Department,)
Mantralaya, Mumbai – 400 032.)
- 3) **Shri O.P. Gupta, I.A.S.,**)
Additional Chief Secretary,)
Finance Department, Mantralaya,)
Mumbai – 400 032.)
- 4) **The Principal Secretary,**)
Law & Judiciary Department,)
Mantralaya, Mumbai – 400 032.)

.. RESPONDENTS

APPEARANCE :- Shri Ajay Deshpande, learned counsel for the petitioners.

: Shri P.R. Katneshwarkar, learned special counsel for the respondent authorities.

: Shri V.D. Sapkal, learned senior counsel as instructed by Shri U.S. Patil, learned counsel for applicant in M.A. No. 337/2021.

CORAM : **Hon'ble Shri Justice V.K. Jadhav,**
Vice Chairman
AND
Hon'ble Shri Vinay Kargaonkar,
Member (A)

RESERVED ON : **17.12.2024**
PRONOUNCED ON : **07.01.2025**

ORDER

(Per : Justice V.K. Jadhav, Vice Chairman)

Heard Shri Ajay Deshpande, learned counsel for the petitioners, Shri P.R. Katneshwarkar, learned special counsel for the respondent authorities and Shri V.D. Sapkal, learned senior counsel as instructed by Shri U.S. Patil, learned counsel for the applicant in M.A. No. 337/2021.

2. The matter is finally heard with consent of both the sides at the admission stage.

3. Brief facts giving rise to this Contempt Petition are as follows:-

(i) The petitioners in the present Contempt Petition are the original applicants in Transfer Application No. 02/2021 (Writ Petition No. 2612/2021). Being aggrieved by unsettling the seniority list by respondent no. 01, the petitioners had approached the Hon'ble High Court of Bombay, Bench at Aurangabad by filing Writ Petition No. 2612/2021 precisely for the reason that there has been no Bench available at Maharashtra Administrative Tribunal at Aurangabad at the relevant time and they were constrained to invoke the provisions under Article 226 of the Constitution of India. Their petition was pertaining to the cadre strength and the inter-se seniority, which has been changed after about 38 years with an attempt to accommodate the candidates, who were recruited by nomination in the year 1999.

(ii) It was on the premise that the Tribunal was not functioning at the relevant time at Aurangabad, the writ petition no. 2612/2021 was considered by the Hon'ble High Court of Bombay, Bench at Aurangabad and by order dated 10.02.2021 issued notice to the

respondents, returnable on 17.03.2021 and directed “till then the Status as on today be maintained.” By order dated 17.03.2021, the Hon’ble High Court of Bombay, Bench at Aurangabad has transferred the said writ petition no. 2612/2021 to this Bench of the Tribunal accepting the submissions that the Maharashtra Administrative Tribunal would hear the matters from Aurangabad also may through Video-Conferencing and continued the interim order passed on 10.02.2021 for a period of 03 weeks so as to enable the petitioners and the respondents to put-forth their case before the Tribunal. It is the matter of record that this Tribunal time to time continued the said interim order passed by the Hon’ble High Court of Bombay, Bench at Aurangabad. It is the further part of record that by order dated 17.12.2021 this Tribunal in M.A. NO. 305/2021 in T.A. No. 02/2021 (W.P. No. 2612/2021) and T.A. No. 01/2021 (WP. No. 4908/2021) modified the Status quo order passed by the Hon’ble High Court of Bombay, Bench at Aurangabad dated 10.02.2021.

(iii) The original applicants in T.A. No. 02/2021 (W.P. No. 2612/2021) and T.A. No. 01/2021 (WP. No.

4908/2021) are the promotee Deputy Collectors and they have raised the objections to the seniority list of the cadre of Deputy Collectors for the period from 01.01.1999 to 31.12.2003. The applicants had entered in the cadre of Deputy Collectors as promotee Deputy Collectors. They have claimed the seniority in the cadre of Deputy Collectors as per their respective dates of appointment. There is no dispute about applicability of the provisions of the Maharashtra Deputy Collectors (Recruitment, Fixation of Seniority and Confirmation) Rules, 1977 to the dispute in the present matter. According to the applicants, after they have put in long service of about 02 decades received the annual increments and promotions to the substantive position of Deputy Collectors/Deputy Collectors (Selection Grade), Additional Collectors/Additional Collectors (Selection Grade), due to non-compliance of the various rules regarding preparation of the combined seniority list of Tahsildars and review of their services as per the provisions of the Maharashtra Deputy Collectors (Recruitment, Fixation of Seniority and Confirmation) Rules, 1977 do not disentitle them from getting their respective dates of appointments in the cadre of Deputy Collectors. Per contra, Deputy Collectors appointed by

nomination (referred as direct Deputy Collectors) asserted that their initial appointments had been on ad-hoc and fortuitous by nature and in view of the ratio laid down by the Hon'ble Supreme Court, they are fit to be reverted back to their parent cadre of Tahsildars.

(iv) In the backdrop of this factual aspect of the contentions raised by the parties in the aforesaid T.As. and the initial interim protection granted by the Hon'ble High Court of Bombay, Bench at Aurangabad in the aforesaid petitions and further the said interim protection was remained continued till 17.12.2021 by this Tribunal, the petitioners have filed the present Contempt Petition for contravention of the said interim order of Status quo.

4. The learned counsel for the petitioners submits that the respondent no. 01 in defiance and in contravention of the order of Status quo has issued the order dated 17.09.2021, thereby promoting one Smt. Pratibha Ingle (Smt. Apoorva Wankhede) from the cadre of Deputy Collectors (Selection Grade) to the cadre of Additional Collectors. The learned counsel further submits that the respondent no. 01 owes a duty towards this Tribunal to respect the interim order in vogue and was not expected to issue any order, which would go counter to the

order passed by this Tribunal. Even the applicants had brought this fact to the notice of this Tribunal by filing Misc. Application No. 309/2021, which is a matter of record. The learned counsel submits that the respondent no. 01 while tendering unconditional apology to this Tribunal stated that, if this Tribunal is of the view that the said promotion order shall have to be withdrawn, he undertakes to withdraw the same. The learned counsel submits that the respondent no. 01 has deliberately avoided to bring to the notice of this Tribunal of one another order of Smt. Poonam Vijay Mehta dated 05.08.2021.

5. The learned counsel for the applicants submits that during pendency of the Status-quo order, the respondent no. 01 has published the provisional seniority list of the Additional Collectors, which is not in good taste and indicates instance of callous, defiant and contumacious act of the respondent no. 01 towards the interim order passed by the Hon'ble High Court of Bombay, Bench at Aurangabad and continued by this Tribunal from time to time.

6. The learned counsel for the petitioners submits that the audacity and callousness of the respondent no. 01 towards the order of Status quo can further be perceived by the Departmental Promotion Committee, wherein the respondent no.

01 with a calculated motive had deliberately suppressed the fact of prevalence of Status-quo order from the high-placed Government officials including the respondent nos. 02 and 03 herein. The respondent nos. 01 to 03 herein were party to the D.P.C. meeting. It is further submitted that the said D.P.C. meeting convened for effecting promotions from the post of Additional Collector to the post of Additional Collector (Selection Grade). It is thus submitted that conducting of the D.P.C. meeting constitutes willful and deliberate contempt of the interim order passed. The petitioners have represented through their Advocate to the Additional Chief Secretary to the Hon'ble Chief Minister on 18.11.2021 to that effect. The learned counsel submits that the petitioners, therefore, believe that because of said communication of their Advocate, further process of effecting the promotions was not carried out in the matter.

7. The learned counsel for the petitioners submits that thereafter Misc. Application No. 305/2021 filed by respondent no. 01 was listed for hearing before this Tribunal on 16.12.2021 and in order to find out a solution especially in view of the claim of respondent no. 01, approximately 87 posts of Additional Collector are lying vacant and it is necessary to fill up the same,

consensus was arrived at and based thereupon, this Tribunal modified the interim order of Status quo in terms of the order dated 17.12.2021. The learned counsel submits that the interest of the petitioners was not to be affected by filling up the posts of Additional Collector, and thus, the consensus arrived at, permitting the respondent no. 01 to fill up 87 promotional posts of Additional Collectors, which were made subject to the final decision of T.A. no. 02/2021. However, taking undue advantage of the said order, the respondent no. 01 has started effecting the promotions to the post of Additional Collectors (Selection Grade) from the post of Additional Collector. By order dated 22.12.2021, the respondent no. 01 had effected the promotions not to the post of Additional Collectors, but to the post of Additional Collectors (Selection Grade) from the post of Additional Collectors, which has not been permitted by this Tribunal. The respondent no. 01 has effected the promotions of as many as 20 incumbents to the post of Additional Collectors (Selection Grade) (Annexure A-8). The petitioners did not opt to file contempt petition.

8. The learned counsel for the petitioners submits that in the wake of order of status-quo was prevailing at least till 17.12.2021, effecting promotions of Smt. Apurva Wankhade

vide order dated 17.09.2021 (Annexure A-3) and of Smt. Poonam Mehta vide order dated 05.08.2021 (Annexure A-4), preparing a provisional seniority list of the Additional Collectors under Circular dated 05.08.2021 and conducting the meeting of the D.P.C. by misleading the high-placed members of the committee for effecting the promotions to the post of Additional Collectors (Selection Grade) constitutes willful and deliberate non-compliance of the interim order, requiring the respondents herein in this contempt petition to be dealt with in accordance with law for having committed the willful and deliberate contempt of this Tribunal.

9. Shri P.R. Katneshwarkar, learned special counsel for respondent authorities on the basis of the affidavit in reply filed by respondent no. 01 submits that some similarly situated persons i.e. promotee Deputy Collectors have approached the Principal Seat of this Tribunal at Mumbai by filing O.A. Nos. 236 and 237 both of 2021 and the Principal Seat of this Tribunal at Mumbai has passed a detailed and well-reasoned order on 27.07.2021 after considering the provisions of the Maharashtra Deputy Collectors (Recruitment, Fixation of Seniority and Confirmation) Rules, 1977 with the observations

that the applicants therein have failed to establish the prima facie case for interim relief and accordingly rejected the same.

10. Shri P.R. Katneshwarkar, learned special counsel for respondent authorities submits that Smt. Pratibha Ingle (Smt. Apoorva Wankhede) is a direct recruit as Deputy Collector and her name was included in the selection list of 2019-20 based on which the promotion of 61 candidates having been made including the present applicants for being promoted as Additional Collector. However, said Smt. Pratibha Ingle (Smt. Apoorva Wankhede) could not be promoted at the relevant time due to pendency of the departmental enquiry, hence, sealed cover procedure was adopted. Further, in the month of December, 2020 she was exonerated in the said D.E. and after opening said sealed cover, she was found 'Fit' for promotion and accordingly, promotion order is issued vide Government order dated 17.09.2021.

The learned special counsel submits that Smt. Poonam Mehta is a direct recruit as Deputy Collector in August, 2000 and the date of her accommodation in the said cadre of Deputy Collectors is 22.08.2000 as per the provisional seniority list of the Deputy Collectors published vide Circular dated 03.03.2018. Further, the name of Smt. Poonam Mehta was

included in the select list of the year 2019-20, which has also not disputed for being promoted as Additional Collector. However, she could not be considered for promotion prior to October, 2020 for want of Annual Confidential Reports of the relevant years. Hence, Smt. Poonam Mehta with 02 other juniors were considered and recommended for promotion in the meeting of the Establishment Board held on 27.10.2020. Smt. Poonam Mehta came to be promoted as Additional Collector purely on the ad-hoc basis from the select list of the year 2019-20 after being found 'Fit' for promotion in October, 2020 and the Government order promoting her along with her 02 juniors could not be issued in the month of January, 2021. Further, she being single parent, the issue of allotment of Revenue Division was not settled. However, while issuing the promotion order of said Smt. Poonam Mehta on ad hoc basis inadvertently the vital condition that her said promotion shall be subject to decision of Principal Seat of this Tribunal at Mumbai in O.A. nos. 236 and 237 both of 2021 and T.A. Nos. 02 and 01/2021 was not included, but the corrective step has been taken by issuing the corrigendum to that effect vide Government Order dated 26.08.2021 (Annexure R-2).

11. The learned special counsel for the respondents State submits that it is abundantly clear that Smt. Pratibha Ingle (Smt. Apoorva Wankhede) and Smt. Poonam Mehta were eligible for promotion as Additional Collectors along with the petitioners, however, in view of the Government policy to follow the sealed cover procedure in respect of the promotions against Smt. Pratibha Ingle (Smt. Apoorva Wankhede) and in view of allotment of Revenue Division to single parent Smt. Poonam Mehta, their promotion orders could not be issued along with the applicants. In view of the same, no serious prejudice has been caused to the applicants.

12. The learned special counsel for respondent authorities submits that almost 30 posts in the cadre of Additional Collectors (Selection Grade) have been determined as Chairman, Caste Scrutiny Committee and out of that about 18 to 20 posts of Chairman, Caste Scrutiny Committee in various Districts of State of Maharashtra are vacant, which resulted in causing delay in issuing caste certificates to the concerned students, who were required to produce the same in the matters of educational admission process, CET admission process etc. Further, after improvement in the extraordinary and exceptional situation of COVID-19, the admission process

in various educational courses was about to begin. In such peculiar facts and circumstances of the case, the Government thought it fit to fill up all the posts of Chairman, Caste Scrutiny Committee at the earliest by promoting the Additional Collectors, who are within zone of consideration for promotion, in the cadre of Additional Collectors (Selection Grade) and those who are included in the final seniority list of Deputy Collectors published on 29.06.2010 for the period w.e.f. 01.01.1998 to 31.12.1998 and who are promoted in the cadre of Additional Collectors in the period w.e.f. 01.01.2012 to 31.12.2016 and w.e.f. 01.01.2017 to 31.12.2019 respectively.

13. The learned special counsel for respondent authorities further submits that the Additional Collectors, who have been promoted as Additional Collectors (Selection Grade) are those officers, who are included in the final seniority lists of the Deputy Collectors published for the period prior to 01.01.1999 vide Government Circulars dated 18.06.2010, 24.06.2010 and 29.06.2010 respectively, whereas the present petitioners have challenged the final seniority list of the Deputy Collectors published vide Government Circular dated 31.12.2020 for the subsequent period w.e.f. 01.01.1999 to 31.12.2003.

14. The learned special counsel for respondent authorities submits that the applicants in T.A. no. 02/2021 have been promoted in the cadre of Deputy Collectors in the year 2001 and are also far below in the seniority list of the Deputy Collectors, which can be seen easily from the said seniority list of Deputy Collectors published on 31.12.2020. So also, the present petitioners have been promoted as Additional Collector on 30.01.2020 in terms of the G.R. dated 05.10.2015 issued by the General Administration Department rendering of minimum regular services for the period of 03 years in the feeder cadre as condition precedent for promotions. In view of this, the petitioners, who have been promoted as Additional Collector temporarily vide the Government order dated 30.01.2020, are not likely to be eligible for promotion to the post of Additional Collector (Selection Grade) up to 30.01.2023. As on today, the petitioners are not fulfilling the eligibility criteria for being considered for further promotion in the cadre of Additional Collectors (Selection Grade).

15. The learned special counsel for respondent authorities further submits that it is not disputed that the meeting of the Establishment Board, General Administration Department was held on 04.10.2021 to consider the feasibility

of the Additional Collectors, who were/are in the zone of consideration for further promotion in the cadre of Additional Collectors (Selection Grade). As such, the present applicants, who have been promoted as Additional Collectors in the year 2020 and are not within the zone of consideration for being promoted as Additional Collectors (Selection Grade) in the select list of 2020-21. Thus, the respondent no. 01 has given due regard to the said Status quo order. In fact, those promotee Deputy Collectors and the eligible Additional Collectors from the final select list dated 05.08.2021 have not been promoted as Additional Collector (Selection Grade) due to their placement in the said final seniority list of Deputy Collectors dated 31.12.2020. The learned special counsel thus submits that in this background, the adverse contention of the applicants that there is willful disobedience of the interim order of the Status quo is devoid of merits.

16. The learned special counsel for respondent authorities submits that the petitioners are adopting the said status quo order as if being applicable to the Deputy Collectors, whose seniority has already been finalized in the year 2010 for the period w.e.f. 01.01.1998 to 31.12.1998 and such Additional Collectors, who have been promoted in the said cadre till

31.12.2019. The said final seniority list of the Additional Collectors published on 05.07.2021 and 05.08.2021 respectively are not under challenge in T.As. As such, promotions of Additional Collectors in the cadre of Additional Collectors (Selection Grade) do not adversely affect the present applicants. This Tribunal by its order dated 17.12.2021 has clearly stated that there would not be any impediment for effecting promotions up to the posts of Deputy Collector (Selection Grade). It is further ordered that it would be open for the State to fill up approximately 87 posts of Additional Collectors, subject to final decision in T.A. No. 02/2021. It is also informed to this Tribunal that the applicants in T.A. no. 01/2021 would be promoted to the post of Additional Collector immediately after passing the said order dated 17.12.2021. Accordingly, necessary steps are being taken to promote them. At the same time, it is also informed that no adverse action would be taken against the applicants in T.A. no. 02/2021 during pendency of the said matter.

17. The learned special counsel for respondent authorities submits that it is very much necessary that the recruitment in promotional channel on higher posts should be kept in progress. As such, the vacancies occurring in a cadre

by virtue of retirement, death of an employee/officer, creation of new posts and promotional channel and that too on the posts, wherein only one mode of recruitment like promotional channel is available, then it is advisable to adopt the said mode of recruitment regularly. Therefore, while calculating the said approximately 87 posts of Additional Collector, vacancies likely to be occurred due to promotions of Additional Collectors in the cadre of Additional Collectors (Selection Grade) have been taken into consideration. In view of the same, when the petitioners, who have been temporarily promoted as Additional Collector in the year 2020 will be considered for promotion in the cadre of Additional Collectors (Selection Grade) in terms of the provisions Additional Collector (Selection Grade) (Recruitment) Rules, 1996.

18. The learned special counsel for respondent authorities further submits that the respondent no. 01 deeply regret for not mentioning the said status quo order passed by Hon'ble High Court of Bombay, Bench at Aurangabad in TA. 02/2021, which was continued by this Tribunal from time to time, in the said proposal submitted for promotion of Additional Collector to the post of Additional Collector (Selection Grade) and tenders sincere and unconditional apology for the same.

The learned special counsel, however, submits that the eligible Additional Collectors from the final seniority list dated 05.08.2021 in the light of their placement in the final seniority list of the cadre of Deputy Collectors published on 31.12.2020, due respect has been given to the Status quo order and, therefore, a lenient view may be taken against the respondent no. 01.

19. The learned special counsel for respondent authorities submits that the General Administration Department received the proposal of the promotion to the post of Additional Collector (Selection Grade) from the post of Additional Collector from Revenue and Forest Department vide letter dated 25.08.2021. After examining all the documents, the meeting of the Establishment Board no. 02 was held on 04.10.2021 and recommendations were sent to the Revenue and Forest Department vide letter dated 11.10.2021.

20. The learned special counsel for respondent authorities submits that the procedure of the promotion has been elaborated in detail in the Government Resolution of the General Administration Department dated 01.08.2019. Accordingly, a detail proposal in the prescribed format was submitted to General Administration Department by the

concerned Department. Thus, various factual details regarding promotions, such as vacancy, pay scale, recruitment rules, seniority list, pending Court cases, if any, etc. are sent by the Department. In order to determine the eligibility of the candidates for the promotion, the Establishment Board relies on the papers and facts submitted by concerned Department. Thus based on the factual information and the papers submitted by Revenue and Forest Department, the proposal was examined. For promotion of Additional Collector (Selection Grade), the seniority list of feeder cadre i.e. the Additional Collector, which was published on 05.07.2021 considered. As well as the seniority list of Deputy Collectors published on 31.12.2020 was also considered as per Government Resolution of General Administration Department dated 7.5.2021 as it shows seniority status as on 25.05.2004. There was no stay to any of the seniority lists as per the information provided by Revenue and Forest Department. Thus, the recommendations of the Establishment Board were sent to the Revenue and Forest Department vide the letter dated 11.10.2021. The further action regarding promotions was taken by the concerned Department after taking approval of Competent Authority. Thus, the contempt notice against the respondent no. 02 may not be sustained and same may be canceled.

21. We have carefully gone through the rejoinder affidavits filed by the petitioner no. 01. However, all the contentions recorded in foregoing paragraphs seem to have been reiterated by the petitioner. Learned counsel for the petitioners submits that whether the order of the Court/Tribunal is right or wrong is not a criteria while addressing the Contempt Petition. Even if the order is wrong, yet only course available is to get the wrong order corrected and till then the respondents are under an obligation to respect the same.

22. Learned counsel for the petitioners submits that whether the DPC in respect of particular candidates was conveyed in earlier point of time or otherwise can never be a matter of consideration, when the Tribunal's order is to maintain the Status. Nowhere in the interim order dated 17.12.2021 this Tribunal permitted to effect the promotions to the post of Additional Collectors (Selection Grade) from the post of Additional Collectors. The respondent no. 01 had mislead the Establishment Board by answering the column 'whether proceedings are sub-judice in respect of the aforesaid seniority list and if yes, whether there is a stay'. To the first question the answer is in affirmative, however, answer to second question is indeed misleading and false as it has been candidly

stated 'NO'. Thus, the respondent no. 01 is responsible for flouting the interim order passed by this Tribunal for which he needs to be dealt with in accordance with law.

23. So far as M.A. No. 337/2021 is concerned, it seems to have been filed by Smt. Pratibha Samadhan Ingle. It further appears that said M.A. remained to be disposed of while disposing of the T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021) vide common judgment and order dated 26.08.2022.

24. Learned senior counsel Shri V.D. Sapkal, learned senior counsel as instructed by Shri U.S. Patil, learned counsel for applicant in M.A. No. 337/2021 submits that original applicants in T.A. No. 02/2021 are raising issue of promotion of the intervenor/present applicant in M.A. No. 309 of 2021 in TA No. 02 of 2021 with the contention that the order dated 17.09.2021 has been issued by the State Government in violation of the interim order, which is operating in these proceedings. The learned senior counsel submits that so far as the order passed by the Hon'ble High Court of Bombay Bench at Aurangabad on 10.02.2021 in W.P. No. 2612/2021 is concerned, the interim directions are given to maintain the Status as on today (not the Status quo). In paragraph no. 02 of

the said order dated 10.02.2021 the Division Bench of the Hon'ble High Court of Bombay Bench at Aurangabad in W.P. No. 2612/2021 has recorded the submissions of the learned counsel appearing for the writ petitioners that "there was no reason for the respondents to change the seniority list and that the effect of the same would be the petitioners will be relegated as juniors to those who are appointed in the year 2002." The learned senior counsel submits that subsequently even the said order passed by the Hon'ble High Court of Bombay Bench at Aurangabad in W.P. No. 2612/2021 is continued by this Tribunal time to time. However, same has been stated as "Status quo".

25. Shri V.D. Sapkal, learned senior counsel has vehemently submitted that the 'Status' of the applicants in T.As. was never changed in violation of the interim order passed on 10.02.2021 by the Hon'ble High Court of Bombay, Bench at Aurangabad in W.P. No. 2612/2021 and the subsequent orders passed by this Tribunal time to time continuing the said interim order.

26. In the backdrop of all these submissions, we deem it appropriate to record and repeat here that by the common judgment and order passed on 26.08.2022 the Division Bench

of this Tribunal has disposed of T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021). We need to quote the observations made in paragraph no. 86 of the common judgment and order passed by this Tribunal while disposing the T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021) vide order dated 26.08.2022. It is not necessary to reproduce the entire paragraph no. 86 and only the relevant part, which is necessary for present discussion, is reproduced herein below:-

“.....In the instant matter, as we have elaborately discussed herein above, there is absolutely no possibility of causing any injustice to the applicants in both these matters even if the impugned seniority list is not set aside. As against it, if it is set aside, the consequences are more damaging. For the reasons stated as above, though we are issuing certain directions in the present matter, we are not inclined to accept the request made in both the T.As. of quashing and setting aside the impugned seniority list.”

27. In paragraph no. 87 though this Tribunal has observed that “negligence and serious lapses on part of Government machinery in following the provisions in the Recruitment Rules of 1977 in appropriate manner” and directed further to take care of all the aspects as detailed in

said paragraph. Being aggrieved by the common judgment and order passed by this Tribunal in T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021) dated 26.08.2022, the present applicants and many others have separately approached the Hon'ble High Court of Bombay, Bench at Aurangabad by filing Writ Petition No. 9163/2022 and other connected writ petitions. The Division Bench of Hon'ble High Court of Bombay, Bench at Aurangabad by the judgment and order dated 08.08.2024 has dismissed the aforesaid writ petitions with the following observations:-

“110. We agree with the view taken by the Tribunal that the very transition of these 4 Applicants, from Tahsildars to promotee deputy Collectors, is an irregularity. The seniority list dated 31.12.1998, has attained finality and there has been no challenge to the same. The circular dated 29.06.2010 is a testimony of the said seniority list being crystallized. This has also been reiterated in the impugned seniority list vide paragraph Nos.7.1 and 7.2. Paragraph Nos.11 and 20 of the affidavit in reply of the State Government before the Tribunal, crystallized the said issue. In the light of the same, the impugned final seniority has been settled. The grievance of these 4 Applicants is, therefore, baseless and does not deserve consideration. Except these 4, all other PDCs have accepted the impugned seniority list.

111. We need to consider another angle, as to whether the Tribunal could have made suggestions and issued directions,

when it had come to a conclusion that both the Applications deserved to be rejected. Once the Tribunal came to a conclusion that the grievance of the 4 Applicants is unsustainable, it should not have travelled any further as their Applications deserved no consideration. Therefore, issuing guidelines and suggestions, was unwarranted, more so, when all those who would be affected by such suggestions or directions, were not before the Tribunal.

112. Consequentially, when the challenge posed by the four Applicants had been rejected, the Tribunal could not have travelled beyond their prayers. Since we have concluded that both the Transfer Applications of these four Applicants deserve to be rejected, the suggestions put forth by the Tribunal below paragraph No.87 and the consequential order below paragraph No.88, deserve to be quashed. There was no reason, in our view, for the learned Tribunal to make suggestions when the impugned seniority list was not to be interfered with or set aside.

113. -- -- -- --

114. In view of our conclusions in this judgment and as both the Transfer Applications fail, we have no reason to deal with the other contentions made by the private parties/ Petitioners before us. The grievance of these four Applicants as against the impugned seniority list dated 31.12.2020, is unsustainable. Both the Transfer Applications, on this ground, deserve to be dismissed.”

28. In view of the aforesaid pronouncement of the Hon’ble High Court of Bombay, Bench at Aurangabad in the aforesaid writ petition no. 9163/2022, the decision on the

present Contempt Petition, which is in connection with the interim order operating during the period from 10.02.2021 to 17.12.2021 would remain as an academic question to be dealt with, since the interim order merged into the final order passed by this Tribunal in T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021) dated 26.08.2022. However, considering the lengthy submissions made on behalf of the parties, we have carefully examined the every aspect of this case. It is however needless to state here that the Contempt Petition has to be dealt with due care and caution. We need to reproduce the order, which is a short order passed by the Hon'ble High Court of Bombay, Bench at Aurangabad on 10.02.2021 in W.P. no. 2612/2021 when the applicants have approached to the Hon'ble High Court of Bombay, Bench at Aurangabad under the pretext that the Maharashtra Administrative Tribunal is not functioning at Aurangabad :-

“Mr. Deshpande, the learned counsel submits that the Maharashtra Administrative Tribunal is not functioning at Aurangabad. The learned counsel submits that the petitioners were promoted as Deputy Collector in July, 1999 from the feeder cadre of Tasildar. Under the fresh seniority list prepared, the petitioners are pushed down in the seniority and those who were appointed by nomination such as respondent Nos. 5 to 10 are shown as seniors to the petitioners,

2. *The learned counsel upon relies order of the tribunal in Original Application No. 526 of 2004 dated 17th April 2008 passed by the tribunal at its principal seat to suggest that the tribunal also came to the conclusion that the Government has maintained the ratio of directly appointed Deputy Collector and the promotees. In view of that there was no reason for the respondents to change the seniority list. The learned counsel submits that effect of the same would be the petitioners will be relegated as juniors to those who are appointed in the year 2002.*

3. *Issue notice to the respondents, returnable on 17.03.2021. Learned A.G.P. waives notice for respondent Nos. 1 to 4.*

4. *Till then, status as on today be maintained.”*

29. It is further part of the record that by order dated 17.03.2021, the Hon'ble High Court of Bombay, Bench at Aurangabad has transferred the aforesaid writ petitions to this Tribunal and continued the interim order passed on 10.02.2021 for a period of 03 weeks so as to enable the petitioners and the respondents to put-forth their case before the Tribunal.

30. We have carefully gone through the said order dated 10.02.2021 passed by the Hon'ble High Court of Bombay, Bench at Aurangabad in Writ Petition No. 2612/2021. It appears that while dealing with the apprehension expressed by the learned counsel for the petitioners to the effect that due to

change of the seniority list, the petitioners will be relegated as juniors to those, who are appointed in the year 2002, directed the respondents to maintain the status as on that date. We agree with the submissions made by the learned senior counsel Shri V.D. Sapkal that the said interim order directs the respondents to maintain the status, when the learned counsel for the writ petitioners has expressed apprehension that the petitioners will be relegated as juniors to those who are appointed in the year 2002. It is further part of record that this Tribunal, though continued the said interim order passed by the Hon'ble High Court of Bombay, Bench at Aurangabad in the aforesaid Writ Petition, stated that the order of Status quo passed by the Hon'ble High Court of Bombay, Bench at Aurangabad has been continued.

31. It is also the part of record that the State of Maharashtra through Additional Chief Secretary, Revenue and Forest Department, has filed M.A. No. 305/2019 in T.A. No. 02/2021 for vacating the aforesaid interim order dated 10.02.2021 passed by Hon'ble High Court of Bombay, Bench at Aurangabad in T.A. No. 02/2021 (W.P.NO. 2612/2021) stating therein that the core issue of aforesaid writ petitions is to challenge the seniority list dated 31.12.2020 published by the

respondent (applicant in M.A.No. 305/2021) regarding seniority of the Deputy Collectors and the respondent (applicant in M.A. No. 305/2021) has filed M.A. No. 145/2021 in T.A. No. 01/2021 and M.A.No. 146/2021 before the Hon'ble Chairperson of Maharashtra Administrative Tribunal, Mumbai for transfer/clubbing of both the Transfer Applications before the Principal Seat of this Tribunal at Mumbai. After hearing all the parties therein the Hon'ble Chairperson by order dated 18.05.2021 has dismissed the aforesaid M.As. Further the Principal Seat of this Tribunal at Mumbai has heard O.A. Nos. 236/2021 and 237/2021 for interim relief and pleased to reject the prayer for interim relief by an order dated 27.07.2021. It is further stated in the said application by respondent State that the T.A. Nos. 01/2021 and 02/2021 are identical matters. In para 10 of the said M.A. No. 305/2021 the State has specifically stated that approximately 87 posts of Additional Collector are vacant. Hence, it was very much necessary to fill up the said posts immediately in order to cope up with the regular work and also the situation of COVID-19. The interim order affects the entire chain of promotion of Revenue Officers. In this situation it is difficult to run smooth administration, otherwise it will affect larger interest of the State. Even due to this situation the State/respondent has faced one contempt

petition for non-compliance of the order of the Hon'ble Supreme Court in regard to the physical handicap quota. It is further stated that both the applicants in the aforesaid TAs are already promoted as Additional Collector and they are enjoying all the benefits of the circular dated 31.12.2020.

It need to be stated here that in the aforesaid backdrop this Tribunal has modified the interim order dated 10.12.2021 passed by Hon'ble High Court of Bombay, Bench at Aurangabad. The operative part of the said modified order dated 17.12.2021 passed in M.A. No. 305/2021 in T.A. No. 02/2021 is reproduced herein-below: -

“O R D E R

The order of Status quo passed by the Hon'ble High Court on 10.2.2021 in W.P. No. 2612/2021 (T.A. No. 2/2021) and which has been time to time continued by this Tribunal is modified as under :-

(i) It would be open for the State to fill up 87 promotional posts of Additional Collectors, subject to the final decision in T.A. No. 2/2021 (Writ Petition No. 2612/2021).

(ii) As informed by the learned Special Counsel for the State, the State would not take any adverse action against the applicants in T.A. No. 2/2021 (Writ Petition No. 2612/2021) during its pendency.

(iii) *As has been further informed by the learned Special Counsel appearing for the State, the State would promote the applicants in T.A. No. 1/2021 (Writ Petition No. 4908/2021) to the post of Additional Collectors immediately after passing of the present order.*

(iv) *It is clarified that there shall not be any impediment for the State for effecting the promotions up to the post of Deputy Collectors (Selection Grade).*

(v) *Accordingly, M.A. No. 305/2021 stands disposed of with no order as to costs.*

(vi) *Both the T.As. & M.As. therein be listed for hearing on 21.01.2022.*

32. We have carefully gone through the affidavit in reply filed by respondent No. 1. We have also elaborately recorded the submissions made for respondent No. 1 by learned Senior Counsel Shri Katneshwarkar. We find no willful disobedience of the interim order dated 10.12.2021 passed by Hon'ble High Court of Bombay, Bench at Aurangabad in T.A. No. 02/2021 (W.P. No. 2612/2021), which was time to time continued by this Tribunal, by the respondent State while considering the promotions of Smt. Pratibha Ingle (Smt. Apoorva Wankhede) and Smt. Poonam Vijay Mehta. Further, in paragraph No. 15

of the said affidavit in reply the respondent No. 1 made the following statements :-

“15. I say and submit that, almost 30 posts in the cadre of Additional Collector (Selection Grade) have been determined as Chairman, Caste Scrutiny Committee and out of that about 18 to 20 posts of Chairman, Caste Scrutiny Committee in various Districts of State of Maharashtra were vacant which had resulted in causing delay in issuing Caste Certificates to the concerned Students who are required to produce the same in the matter of educational admission process, CET Admission process etc. Further, after having improved the extraordinary and exceptional situation of COVID-19 admission process in various educational courses was about to begin. In such peculiar facts and circumstances, Government thought it fit to fill up all those vacant posts of Chairman, Caste Scrutiny Committees at the earliest by promoting Additional Collectors who are within the zone of Consideration for promotion in the cadre of Additional Collector (Selection Grade) and those who are included in the final seniority list of Deputy Collectors published on 29/06/2010 for the period w.e.f. 1/1/1998 to 31/12/1998 and who are promoted in the cadre of Additional Collector in the period w.e.f. 1/1/2012 to 31.12.2016 and w.e.f. 1/1/2017 31/12/2019 respectively. Further, those Additional collectors who are included in the of seniority lists of Additional Collector published vide Government Circular dated 5/7/2021 and 5/8/2021 respectively as well as who are fulfilling the

criteria mentioned in the provisions of the Selection Grade Additional Collector Recruitment Rules, 1996.

I further say and submit Additional Collectors, who have been promoted as Additional Collector (Selection Grade) are those officers who are included in the final seniority lists of Deputy Collectors published for the period prior to 1.1.1999 vide Government Circulars dated 18/6/2010, 24/6/2010 and 29/6/2010 respectively. Whereas, present Applicants have challenged the final seniority list of Deputy Collectors published vide Government Circular dated 31/12/2020 for the subsequent period w.e.f. 1/1/1999 to 31/12/2003. Copies of said Seniority lists of Deputy Collectors published vide Government Circular dated 18/6/2010, 24/6/2010 and 29/6/2010 respectively are annexed herewith and marked as Annexure R-3 Colly.”

33. It may not be appropriate on our part to deal with the pleadings in T.A. Nos. 01/2021 & 02/2021 respectively, but suffice to say that in the given circumstances as elaborated by respondent No. 1, in our considered opinion, there is no willful disobedience of the *ex-parte* interim order dated 10.02.2021 passed by the Hon'ble High Court of Bombay Bench at Aurangabad in T.A. No. 02/2021 (W.P. No. 2612/2021), which was time to time continued by this Tribunal, being remained operative during the period from 10.02.2021 to 17.12.2021.

34. The learned counsel for the petitioners in the Contempt Petition has vehemently argued that the respondent no. 01 has concealed the fact that the order of Status quo is running in the matter while referring especially the point no. 09 of the D.P.C. meeting. We have gone through the minutes of the meeting of the Establishment Board No. 02 held on 04.10.2021. In the proposal information about operating of ex-parte interim order is not clearly mentioned. In this regard, we reproduce herein below paragraph no. 19 of the affidavit in reply filed by respondent no. 01 :-

“19. I say and submit that, despite of above said undisputed facts, Applicants are adopting the said 'Status quo' order as if, being applicable to the Deputy Collectors whose seniority has already been finalized in the year 2010 i. e. for the period to 31/12/1998 and that such Additional Collectors who have been promoted in the said cadre till 31/12/2019 i.e. prior to present Applicants. Further, the said final seniority lists of Additional Collectors published on 5.7.2021 and 5.8.2021 respectively are not under the challenge in the present Original Application. As such, promotions of Additional Collectors in the cadre of Additional Collector (Selection Grade) does not adversely affect to the present Applicants. At the same time, 5 Additional Collectives Viz. Shri. Annasaheb Shinde, Shri Prakash Patil, Shri Ashok Patil, Shri Shahaji Pawar and Shri Sanjeev Jadhav Additional Collectors (Promotee Deputy Collectors) who were promoted in the said cadre in the year 2017 and are eligible for being promoted in the cadre of Additional Collector

(Selection Grade) have not been promoted in view of their placement in the seniority of Deputy Collectors published vide Government Circular date 31/12/2020. Hence, it is denied that by promoting 20 Additional Collectors in the cadre of Additional Collector (Selection Grade) vide Government order dated 22.12.2021 I have violated the Status Order passed initially by Hon'ble High Court of Bombay, Aurangabad Bench and continued by this Hon'ble Tribunal till its modification by an order dated 17/12/2001."

35. Further, we deem it appropriate to reproduce paragraph no. 23 of the affidavit in reply of respondent no. 01:-

"23. I humbly say and submit that, the deponent/Non Applicant No. 1 holds this Hon'ble Tribunal in great respect and esteem. I once again submit that Additional Collectors under consideration for promotion to the post of Additional Collector (Selection Grade) are from the seniority list of Deputy Collectors which is finalized in the year 2010. Further, the final seniority lists of Additional Collector dated 5/7/2021 (In respect of Additional Collectors promoted w.e.f. 1/1/2012 to 31/12/2016) and dated 5/8/2021 in respect of Additional Collectors promoted w.e.f. 1/1/2017 to 31/12/2019) have been taken into consideration. But at the same time, eligible Additional Collectors from said seniority list dated 5/8/2021 but who have become junior to the direct recruit Deputy Collectors as per the final seniority list of Deputy Collectors dated 31.12.2021 have not been promoted to the post of Additional Collectors (Selection Grade). As such, the Status quo as on 10/2/2021 in respect of Final Seniority List of Deputy Collectors dated 31/12/2020 is not violated. On this background, the Respondent No 1 deeply regret for not mentioning the said status quo order passed by

Hon'ble High Court of Bombay, Aurangabad bench in T. A. No 2/2021 which was continued further by this Hon'ble Tribunal from time to time in the said proposal submitted for promotion of Additional Collectors to the post of Additional Collector (Selection Grade) and tender my sincere and unconditional apology for the same. But at the same time humbly request this Hon'ble Tribunal that by not promoting eligible Additional Collectors from the final seniority list dated 5/8/2021 in the light of their placement in the final seniority list of Deputy Collectors published on 31/12/2020 due respect has been given to the said Status quo Order and the same has not been violated prays to this Hon'ble Tribunal to graciously be pleased to accept humble apology and take a lenient view against me i.e. Non Applicant No.1.”

36. In the circumstances, we accept the explanation tendered by respondent no. 01 in his affidavit in reply filed in C.P. No. 01/2022 as expressed hereinabove to the extent and in the context that there is no willful disobedience of the ex parte interim order being operative during the period from 10.01.2021 to 17.12.2021. Accordingly, we dispose of the Contempt Petition. Hence, the following order:-

ORDER

- (i) Contempt Petition No. 01/2022 in T.A. No. 02/2021 (W.P. No. 2612/2021) is hereby dismissed.
- (ii) As T.A. No. 01/2021 (W.P. No. 4908/221) and T.A. No. 02/2021 (W.P. N. 2612/2021) are already disposed of by this Tribunal vide common judgment and order dated

26.08.2022, nothing survives for consideration in the pending M.A. No. 337/2021 filed by applicant Smt. Pratibha S. Ingle for adding her as party respondent in T.A. no. 02/2021 and therefore the same stands disposed of.

(iii) In the circumstances, there shall be no order as to costs.

(iv) The Contempt Petition is accordingly disposed of.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 07.01.2025