

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO.65 OF 2017
IN
ORIGINAL APPLICATION NO.639 OF 2016**

Shri Noreshwar R. Shende.)...**Applicant-Intervener**
(**Proposed Resp.No.3**)

Shri H.J. Nazirkar.)...**Ori. Applicant**

Versus

1. The Addl. Chief Secretary,)
GAD & one another.)...**Respondents**

Mr. A.V. Bandiwadekar, Advocate for Intervener (Proposed Resp.No.3).

Mrs. Punam Mahajan, Advocate for Original Applicant.

Smt. K.S. Gaikwad, Presenting Officer for Respondents 1 & 2.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 11.04.2017

ORDER

1. This is a third party impleadment application.



2. I have perused the record and proceedings and heard Mr. A.V. Bandiwadekar, the learned Advocate for the Intervener (Proposed Respondent No.3), Smt. Punam Mahajan, the learned Advocate for the original Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for Respondent Nos.1 & 2.

3. The Original Application such as it was brought was for seeking deemed date of promotion. The Applicant seeks impleadment on the ground that his interest is likely to be adversely affected if the OA was to be heard in his absence or without he being a party hereto. There was an earlier OA which was decided by the 2nd Division Bench of this Tribunal, which I was also a party in **OA 269/2016 (Shri S.B. Nangure Vs. The State of Maharashtra and 3 others)**. The present Applicant hereof was the 4th Respondent there. It is a common ground that the matter was carried by the State to the Hon'ble High Court thereagainst and now the matter is pending there. The present original Applicant was not a party thereto. However, it does quite clearly appear that, regardless of whether technically, the Applicant hereof is a necessary party or not, by the very nature of things, he will be at least a proper party because of the very nature of the lis such as it is. It is no doubt true that the original Applicant



as initiator of action is *dominus litis*. However, that is not the only consideration that always weighs with the judicial forum in such matters. I am, therefore, quite clearly of the view that the third party application will have to be allowed, especially because no rights are going to be concluded either ways by the mere impleadment. The possibility of the matter getting prolonged can be taken care of by the normal tools of judicial administration. The application, therefore, is allowed. The Applicant hereof be impleaded as Party Respondent No.3 by an appropriate amendment to be effected by the Applicant within one week from today. A consolidated copy of the OA after amendment be filed and a copy be furnished to the learned PO, Mr. Bandiwader, the learned Advocate do waive service of the OA and the OA stands adjourned for Affidavit-in-reply to 21st April, 2017. The Misc. Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
11.04.2017

Mumbai

Date : 11.04.2017

Dictation taken by :

S.K. Wamanse.

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