

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.834 OF 2025 WITH
MISCELLANEOUS APPLICATION NOS.454 & 464 OF 2025**

WITH

O.A.NO.843 OF 2025 WITH M.A.NOS.244, 415, 443 OF 2025

WITH

O.A.NO.885 OF 2025

O.A.No.834/2025

- (1) Bhiva Harishchandra Sawant)
R/at. Flat No.1207, Bldg No.19,)
Papyrus, Regency Anantam, Vicco Naka,)
Dombivli (E), Thane 421 203)
- (2) Sachin Suresh Yerunkar,)
R/at. Crisent Solitaire, B Wing,)
Flat No.202, A K. Road, Near)
International Airport, Sahar Andheri,)
Andheri (E), Mumbai 400 072)
- (3) Amol Shyamrao Dhumal,)
R/at. Sneh Tara Bungalow, Chaitanya)
Sankul, Shirgaon, Badlapur (E))
- (4) Avinash Ramdas Mahajan,)
R/at. 403, Bhasker Tower, Near to Police,)
Public School, Kharker Ali,)
Thane (W) 400 601)
- (5) Ajit Vilas Patil,)
Working at Commissionerate of Police,)
Solapur C/o. 1303, Ravi New Police,)
Tower, New Thane Police School,)
Kharkar Ali, Thane (W))

- (6) Prashant Hanumant Sabale,)
R/at. Flat No.5, Rama Apartment,)
Vasudev Nagar, Hingna Road, Nagpur)
- (7) Rakesh Laxman Dange,)
R/at. Flat No.1306/AI, Millenium Height,)
Shahad Kalyan (E))
- (8) Prasad Madam Shekdar,)
R/at. Kole Kalyan Police Adhikari)
Vasahat, T3 Building, Toom No.904,)
Kalina, Santacruz (E), Mumbai)
- (9) Pushparaj Vinayak Surve)
R/at. 31, Savitri Dham W.S. Road,)
Dahisar (E), Mumbai)
- (10) Medha Lahu Rane,)
R/at. Excellent Tower C/402, Dr. R.P.)
Road, Mulund (W), Mumbai 400 080)
- (11) Sachin Namdeo Karande,)
R/at. Akshay Palace, A/18, Near Vajre)
Bridge, Vajre, Pune)
- (12) Chhabu Bhagchand Berad,)
R/at. Ajinkya Samruddhi Building,)
Sawant Vihar, Katraj Pune)
- (13) Sandip Nana Patil,)
R/at. Chaklamba, Tal. Gevrai, Dist. Beed)
- (14) Vinayak Gopal Patil,)
R/at. 3C- 501, Levander CHS, India Bulls)
Green, Village Kon, Taluka Panvel,)
Dist. Raigad.)
- (15) Sujit Balaram Mundhe,)
R/at. Nilsiddhi CHS, Flat No.B-704,)
Takka Road, Panvel 410 206)

- (16) Vijay Ramnath Dumbre,)
R/at. Room No.303, B Wing, New Police)
Colony, L.B.S. Road, Ghatkopar (W),)
Mumbai)
- (17) Mahesh Sakharam Tawade,)
R/at. A 302, Pawanputra CHS, Ashokwan,))
Dahisar (E), Mumbai.)
- (18) Maheshkumar Kalyansingh Thakur)
R/at. Bldg No.B-2, Flat No.2, Boriwali,)
West, Police Adhikari Vasahat,)
Opp. Boriwali Western Railway,)
Mumbai 400 092)
- (19) Nitin Narayan Mayekar,)
R/at. 2B/ 803, New Santacruz Police)
Line, Wireless Compound, Santacruz)
West, Mumbai 54)
- (20) Kishor Tukaram More,)
R/at. Room No.404, A Wing,)
Vinayakdham CHS, Siddhivinayak Nagar,)
Pandurang Wadi, Mira Road (E),)
Dist. Thane 401 107)
- (21) Dnyaneshwar Jagannath Badgujar,)
R/at. Flat No.203, Shital Plaza, Jamb)
Road, Yavatmal, Tal Dist. Yavatmal)
- (22) Sudheer Narayan Thorat,)
R/at. Arun B. Wing, Room No.702, Suyog)
Nagar, Kshitij Rajhans, Chulne Road,)
Vasai (W), Palghar 401 202)
- (23) Ankush Vishnu Nawadkar,)
R/at. B/1802, Shree Krushna Tower,)
Tambe Nagar, Mulund West,)
Mumbai 400 080)

(24) Shivsambh Ishwar Swami)
R/at. Ganesh Nagar, Near Pokharni Phata,))
Pathari, Tal. Pathari, Dist. Parbhani.)

...APPICANTS.

VERSUS

(1) The State of Maharashtra,)
Through the Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032)

(2) The State of Maharashtra,)
Through Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032)

(3) The Secretary,)
Law and Judiciary,)
Mantralaya, Mumbai 400 032)

(4) The Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 005)

(5) Maharashtra Public Service Commission,)
Through the Secretary,)
Plot No.34, Opposite Sarovar Vihar,)
Sector 11, CBS Belapur,)
Navi Mumbai 400 614)

....RESPONDENTS.

With

M.A.No.454/2025

(1) Utkarsh Ashok Vaze)
R/at. D-502, Gurukrupa CHS, N.C. Kelkar)
Marg, Opp. Plaza Cinema, Dadar (W),)
Mumbai 400 028)

- (2) Suhas Nana Mane,)
R/at. Flat No.102, 1st floor, Shanta Durga)
Apartment, St. Paul Road, Dadar (East),)
Mumbai 400 014)
- (3) Prashant Dilip More,)
R/at. A-903, Akshar Canabee, Plot No.16,)
Sector 36, Kamothe, Panvel : 410 209)
- (4) Dattatray Mahadeo Daraade,)
R/at. Flat No.9, Priyadarshani Apartment,)
Prabhat Road, Lane No.14, Pune 411 004)
- (5) Mahesh Dattatray Jadhav,)
R/at. C-504, Chandresh Shehnai,)
Lodha Heritage, Desale Pada,)
Dombivli (East) 421 201)
- (6) Arun Manik Padhar,)
R.at. 701/A, Rajbhar Arcade,)
Rajbhar Nagar, Kalyan (East),)
Thane 421 306)
- (7) Mangalsing Mohan Chavan,)
R/at. Room No.503, A3 Shangvi Valley,)
Near Reliance Mall, Parsikar Nagar,)
Kalva, Thane.)
- (8) Umesh Kisan Ingale,)
R/at. B/402, Himgiri CHS, Veena Nagar)
Phase 2, LBS Road, Mulund (West),)
Mumbai 400 080) ... INTERVENER APPLICANTS

BETWEEN

Bhiva Harishchandra Sawant & Ors.) **..Applicants.**
Versus
The State of Maharashtra & Anr.) **...Respondents.**

With

M.A.No.464/2025

Parag Ashok Ukarde)
R/at. 1304, Police Officer Quarters,)
13th floor, Nakashe Marg, Tardev Mumbai) ... **INTERVENER APPLICANT**

BETWEEN

Bhiva Harishchandra Sawant & Ors.) **..Applicants.**

Versus

The State of Maharashtra & Anr.) **...Respondents.**

WITH**O.A.No.843/2025**

- (1) Bhagwan S. Kasle,)
R/at. 405, Satyam Mayfair CHS Ltd,)
Plot No.B4-B5, Sector 16, Ulwe Node,)
Tq. Panvel, Dist. Raigad.)
- (2) Suhas Suresh Londhe)
R/at. B-103, Venus Park, Wagholi)
Tal. Haweli, Dist. Pune 412 207)
- (3) Gourav K. Bhosale,)
R/at. 703, Nilgiri CHS, Behind Agripada,)
Police Station, Agripada, Mumbai.)
- (4) Mithun S. Metkari,)
R/at. 602, Vogeshwar Krupa CHS,)
Cotton Green, Mumbai.)
- (5) Prabhakar M. Gaware)
R/at. Ayush Regency, Room No.303,)
Plot No.53/54, Sector – 20, Kamothe,)
Tal. Pancel, Dist. Raigad 410 209)
- (6) Sofiyan Rashid Sayyad)
R/at. B.No.2, Teacher's Colony,)
College Raod, A/p. Saikheda,)
Tal. Niphad, District Nashik 422 210)

- (7) Sudhir J. Kolekar,)
R/at. Room No.1206, 4B Building,)
New Hind Mill, Mhada, Sankul,)
Mazgaon, Mumbai 400 010)
- (8) Sushant Babaso Patil,)
R/at. Flat No.605, Plot No.14,)
Balaji Dattu Residency, Sector 20,)
Ulwe, Navi Mumbai.)
- (9) Uddhav Bhalchandra Vibhute)
R/at. Flat No.1105, Haridarshan CHS,)
Plot No.17/18, Sector 9, Ulwe,)
Tal. Panvel, District Raigad 410 206)
- (10) Harshal Punju Patil,)
R/at. 1001, B-Wing, Pride Park,)
Kolshet Road, Thane West.)

....APPLICANTS

VERSUS

- (1) The State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400 032)
- (2) The State of Maharashtra,)
Through the Addl. Chief Secretary,)
(Services), (14-B), General Administration)
Department, Mantralaya, Mumbai 400 032)
- (3) The State of Maharashtra,)
Through the Addl. Chief Secretary,)
(Services), (16-B), सविस्)
General Administration Department,)
Mantralaya, Mumbai 400 032)
- (4) The Secretary,)
Law and Judiciary,)
Mantralaya, Mumbai 400 032)

- (5) Smt. Manisha Suhas Jamdade,)
R/at. B-40/7, Government Colony,)
Bandra (E))
- (6) Shri Sunil Balkrishna Tambe,)
R/at. 2/1001, Shell Colony,)
Chember, Mumbai 400 071)
- (7) Smt. Deepali Narendra Sonavane,)
R/at. C-404, Chavneshwar CHS,)
b-79, Sector 23, Seawood, Navi Mumbai)
- (8) Smt. Sushma Amol More,)
Assistant Section Officer,)
Revenue and Forest Department,)
Mantralaya, Mumbai 400 032)
- (9) Shri Yogesh Wasnik,)
Assistant Section Officer,)
Cooperation, Marketing & Textile)
Department, Mantralaya, Mumbai 400 032) **...RESPONDENTS**

With**M.A.No.244/2025**

Subhash Namadev Sable)
Add : 402, E Wing, Mangalaprast,)
Co-op. Housing Sco. Chanakya Nagar,)
Near Don Bosco School,)
Kalyan West, Thane 421 301) **... INTERVENER APPLICANT**

BETWEEN

Vijay Murlidhar Koli,)
R/at. 1303, Ravi New Police Tower,)
Near Thane Police School, Kharkar Ali,)
Thane (W).) **.... Org. Applicant**

Versus

- (1) The State of Maharashtra .)
Through Secretary, Home Department,)
Mantralaya, Mumbai 400 032)

- (2) Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032)
- (3) Secretary, Law and Judicial Department,)
Mantralaya, Mumbai 400 032)
- (4) Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 005)
- (5) Secretary, Maharashtra Public)
Service Commission, Mumbai) **...Respondents.**

With**M.A.No.415/2025**

- Shri Parag Ashok Ukarde,)
Add : 1304, Shivneri Police Officer,)
Quarters, Tardeo, Mumbai 400 034) **... INTERVENER APPLICANT**

BETWEEN

- (1) Ajit Vilas Patil,)
Working at Commissionerate of Police,)
Solapur, Room No.303, Smruti Apartment,))
Near Foujdar Chavadi Police Station,)
Solapur 413 002)
- (2) Avinash Ramdas Mahajan,)
R/at. 403, Bhasker Tower, Near to Police)
Public School, Kharker Ally,)
Thane (West) 400 601) **.... Applicants**

Versus

- (1) The State of Maharashtra,)
Through Secretary, Home Department,)
Mantralaya, Mumbai 400 032)
- (2) The Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032)

- (3) The Secretary,)
Law and Judicial Department,)
Mantralaya, Mumbai 400 032)
- (4) Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 005)
- (5) The Secretary,)
Maharashtra Public Service Commission,)
Mumbai.)

....Respondents.

With

M.A.No.443/2025

Sanjay Supadu Bhalerao,)
R/at. A/1. Samyak Apartment,)
Ground floor, Near Ganpati Mandir,)
Nana Master Nagar Mudre, Karjat Raigarh)
Maharashtra 410 201)

BETWEEN

- (1) Bhagwan S. Kasle,)
R/at. 405, Satyam Mayfair CHS Ltd,)
Plot No.B4-B5, Sector 16, Ulwe Node,)
Tal. Panvel, Dist. Raigad.)
- (2) Suhas Suresh Londhe,)
R/at. B-103, Venus Park, Wagholi,)
Tal. Haveli, Dist. Pune 412 207)
- (3) Gourav K. Bhosale,)
R/at. 703, Nilgiri CHS, Behind Agripada)
Police Station, Agripada, Mumbai.)
- (4) Mithun S. Metkari,)
R/at. 602, Vogeshwar Krupa CHS,)
Cotton Green, Mumbai.)
- (5) Prabhakar M. Gaware,)
R/at. Ayush Regency, Room No.303,)
Plot No.53/54, Sector-20, Kamothe,)
Tal. Panvel, Dist. Raigad 410 209)

- (6) Sofiyan Rashid Sayyad,)
R/at. B.No.2, Teacher's Colony,)
College Road, A/p. Saikheda, Tal. Niphad,)
Dist. Nashik 422 210)
- (7) Sudhir J. Kolekar,)
R/at. Room No.1206, 4B Building,)
New Hind Mill, Mhada Sankul, Mazgaon,)
Mumbai 400 010)
- (8) Sushant Babaso Patil,)
R/at. Flat No.605, Plot no.14,)
Balaji Dattu Residency, Sector – 20,)
Ulwe, Navi Mumbai.)
- (9) Uddhav Bhalchandra Vibhute,)
R/at. Flat No.1105, Haridarshan CHS,)
Plot No.17/18, Sector -9, Ulwe, Tal Panvel)
Dist. Raigad 410 206)
- (10) Harshal Punju Patil,)
R/at. 1001, B-Wing, Pride Park,)
Kolshet Road, Thane (West),)

.... **Org. Applicants****Versus**

- (1) The State of Maharashtra,)
Through the Chief Secretary,)
Mantralaya, Mumbai 400 032)
- (2) The State of Maharashtra,)
Through Addl. Chief Secretary (Services))
(14-B), General Administration Department)
Mantralaya, Mumbai 400 032)
- (3) The State of Maharashtra,)
Through Addl. Chief Secretary (Services))
(16-B), General Administration)
Department, Mantralaya,)
Mumbai 400 032)
- (4) The Secretary, Law & Judiciary)
Department, Mantralaya,)
Mumbai 400 032)

- (5) Smt. Manisha Suhas Jamdade,)
R/at. B-40/7, Government Colony,)
Bandra (East), Mumbai 400 051)
- (6) Shri Sunil Balkrishna Tambe,)
R/at. 2/1001, Shell Colony,)
Chembur, Mumbai 400 071) **...Respondents**

WITH**O.A.No.885/2025**

- (1) Prashant Chandrakant Dond)
R/at. Flat No.302, SM Chandrabagha,)
Plot No.100, Sector 21, Ulwe.)
- (2) Tejas Baban Jadhav,)
R/at. Flat No.2204, MHADA Colony,)
Ghodapdeve, Cotton Green, Mumbai)
- (3) Umesh Mahadev Adkur,)
R/at. 4B Bldg, New Hind Mhada Sankul)
Ghodapdeo, Mazgaon, Mumbai 400 010)
- (4) Popat Mahadeo Galgate,)
R/at. Shivparvati Bldg, Sector 29)
CBD Belapur, Navi Mumbai 400 0614) **..APPLICANTS.**

VERSUS

- (1) The Government of Maharashtra,)
Through the Chief Secretary,)
Mantralaya, Mumbai 400 032)
- (2) The Addl. Chief Secretary (Services))
(14-B), General Administration)
Department, Mantralaya, Mumbai 400 032)
- (3) The Addl. Chief Secretary,)
(Services) (16-B), सविस्)
General Administration Department,)
Mantralaya, Mumbai 400 032)
- (4) The Secretary,)
Law and Judiciary Department,)
Mantralaya, Mumbai 400 032)

- (5) Smt. Manisha Suhas Jamdade,)
R/at. B-40/7, Government Colony,)
Bandra (E), Mumbai)
- (6) Shri Sunil Balkrishna Tambe,)
R/at. 2/1001, Shell Colony,)
Chembur, Mumbai 400 071)
- (7) Smt. Deepali Narendra Sonavane,)
R/at. C-404, Chavneshwar CHS,)
B-79, Sector – 23, Seawood, Navi Mumbai)
- (8) Smt. Sushma Amol More,)
Assistant Section Officer,)
Revenue and Forest Department,)
Mantralaya, Mumbai 400 032)
- (9) Shri Yogesh Wasnik,)
Assistant Section officer,)
Cooperation, Marketing & Textile)
Department, Mantralaya,)
Mumbai 400 032) **.....RESPONDENTS.**

Shri Sandeep S. Dere, learned advocate for the applicants in O.A.Nos.834 & 843/2025.

Shri M.D. Lonkar, learned advocate for the applicants in O.A.No.885/2025.

Shri P.M. Nimbalkar with Shri S.B. Chandan, learned advocates for the interveners in M.A.Nos.454 & 464/2025 filed in O.A.No.834/2025.

Shri S.S. Deokar, Shri Abhijeet A. Desai and Shri N.K. Devkate, learned advocates for the interveners in M.A.Nos.244, 415 & 443/2025 filed in O.A.No.843/2025.

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

CORAM : **Justice Mangesh S. Patil, Hon'ble Chairman**
Shri A.M. Kulkarni, Hon'ble Member (A)

RESERVED ON : **16.09.2025**

PRONOUNCED ON : 25.09.2025

PER : Justice Mangesh S. Patil, Hon'ble Chairman

J U D G M E N T

Since the fate of all the three matters hinges on the same set of facts, in order to avoid rigmarole we have heard these matters simultaneously with consent of the parties and are disposing of these by this common judgment and order.

2. We have heard the learned advocates for the applicants, learned Chief Presenting Officer for the respondents and learned advocates for the interveners.

3. Though there is a chequered history which we shall be referring to hereafter, the long and short of the dispute revolves around the Government Resolution (G.R.) dated 25.05.2004 which provided for reservation in the matter of promotion, purportedly in the light of Article 16(4-A) of the Constitution of India. It was struck down by the ***Bombay High Court in writ petition no.2797/2015, State of Maharashtra Versus Vijay Ghogare and others by the judgment and order dated 04.08.2017*** holding it to be contrary to the law laid down in ***M. Nagaraj and Others Versus Union of India and Others (2006) 8 SCC 212***, with consequent direction to the State Government to take necessary corrective steps/ measures in respect of promotions which were already granted, within 12 weeks. Operation of the judgment and order of the High Court, in spite of being under challenge before the ***Supreme Court in SLP No.28306/2017***, has not been stayed. The State Government proceeded to undertake the process for further promotions considering the seniority of such promotees who had derived the benefit of reservation under G.R. dated 25.05.2004, initially by G.R. dated

07.05.2021, on the basis of their seniority in the original cadre. But by the impugned G.R. dated 29.07.2025 it has been directed to consider their seniority from the date they were so promoted. The issue is being raised now that when the recruitment rules provide for, *inter alia*, avenue of getting selected or getting accelerated promotion purely on the basis of merit, through a Limited Departmental Competitive Examination (L.C.E.), can it also be said to have been covered by the judgment in **Vijay Ghogare**.

4. The original applicants from O.A.No.834/2025 are the employees of the State Police Department governed by the Police Sub Inspector Recruitment Rules, 1995 (hereinafter 'PSI Rules') aspiring to get promotions to the post of Assistant Police Inspector.

The original applicants from O.A.No.843/2025 are Assistant Section Officers governed by the Assistant Recruitment Rules, 1995 aspiring for promotion to the post of Section Officer, whereas the original applicants from O.A.No.885/2025 are also Assistant Section Officers waiting for promotional orders to the post of Section Officers and to whom the same Recruitment Rules namely, Assistant Recruitment Rules, 1995 are applicable.

5. The chronology of the events, as is relevant for the purpose of adjudication, can be culled down as under :-

(i) The State of Maharashtra enacted Maharashtra Public Service (Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001 (hereinafter referred to as 'Reservation Act 2001') providing for reservation in the public employment.

(ii) By virtue of Section 5 of the Reservation Act 2001 it was declared that the reservation in promotion shall be at all stages of promotions. It further declared that if any Government order providing for reservation

for any posts to be filled by promotion was in force on the date of commencement of the Reservation Act 2001 the same shall continue unless it was modified or revoked.

(iii) By G.R. dated 25.05.2004 the State Government on the premise that already there was policy providing for reservation in promotion, in the form of Government Resolutions dated 23.05.1974, 28.01.1975 and 23.01.1991, superseding all these, issued the G.R. providing for specific percentage for each of the reserved categories of Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes.

(iv) **Vijay Ghogare** was filed challenging the Reservation Act 2001. By order dated 07.02.2005 the High Court directed the parties to maintain status quo.

(v) Pursuant to some observations of the Supreme Court in writ petition (civil) No.255/2002, in civil application no.1783/2006 filed by the State of Maharashtra in writ petition no.8452/2004, by order dated 17.08.2006, the High Court permitted the State of Maharashtra to fill in all the promotional posts, providing reservation, however, it was also directed that while filling up the promotional posts it should be made clear to the appointees that the promotions were subject to final result of the writ petition and such appointments would not create any right.

(vi) A similar order permitting the State to make promotions proportionate to the reservation was again obtained by the State of Maharashtra in civil application no.3130/2005 & connected applications filed in writ petition no.8452/2004 on 09.07.2007 with a similar direction that such promotions would be subject to the final outcome of the writ petition.

(vii) The Supreme Court in **M. Nagaraj** laid down parameters to be followed and modalities to be observed if the promotions were to be granted based on policy of reservation, on 19.10.2006.

(viii) Already the appointments on the posts of Police Sub Inspector and Section Officer under relevant rules were made by conducting the L.C.E.

(ix) The private respondents from O.A.No.843 of 2025 were promoted to the post of Assistant Section Officer through L.C.E. in following manner :-

		Date of passing L.C.E.
(1)	Smt. Manisha Jamdade Respondent no.5	12.11.2008
(2)	Shri Sunil Tambe Respondent no.6	21.03.2013
(3)	Smt. Deepali Sonavane Respondent no.7	12.11.2008
(4)	Smt. Sushma Amol Respondent no.8	29.11.2010
	More	
(5)	Shri Yogesh Wasnik Respondent no.9	17.11.2011

(x) Writ petition nos. 8452 of 2004 & 470 of 2005 were transferred from Bombay High Court to this Tribunal by order dated 18.06.2013. Both these matters which were registered as transfer applications were decided by judgment and order dated 28.11.2014. The Reservation Act 2001 as well as G.R. dated 25.05.2004 were struck down holding those to be *ultra vires* of Article 16(4-A) of the Constitution of India and contrary to **M. Nagaraj**.

(xi) For filling up 322 posts of API, the General Administration Department vide Notification dated 14.06.2017 decided to undertake the process by providing reservation according to the G.R. dated 25.05.2004.

(xii) The State Government issued circular dated 04.04.2018 and made it clear that since the reservation in the matter of promotion by virtue of G.R. dated 25.05.2004 was struck down by the High Court in writ petition no. 2792 of 2015 by judgment and order dated 04.08.2017 (**Vijay Ghogare**) and though the State had approached the Supreme Court in SLP No.28306 of 2017 but it had not granted stay to the operation of Bombay High Court's order and not even had directed

status quo to be maintained, no reservation could be provided while granting promotions.

(xiii) The State directed the Maharashtra Public Service Commission (M.P.S.C.) to complete the process for filling in 322 posts of API through L.C.E. of 2017 without resorting to reservation and purely on the basis of merit.

(xiv) The State Government issued G.R. dated 07.05.2021 mentioning that as the Supreme Court had not granted any stay to the operation of the Bombay High Court judgment in **Vijay Ghogare** promotional posts could not be filled in by resorting to G.R. dated 25.05.2004 and those needed to be filled in purely based on and by applying the seniority criteria. It was also directed that such employees who were granted promotions on the basis of reservation policy extending the benefit of G.R. dated 25.05.2004, their seniority in original cadre was to be considered for further promotion.

(xv) G.R. which is impugned in all these matters, dated 29.07.2025 mentions in the preface that the G.R. dated 07.05.2021 was applicable to the promotional posts which were to be filled in on the basis of seniority and suitability criteria. It was not applicable to the posts which were reserved for selection through L.C.E. The promotions granted by resorting to L.C.E. are not the promotions but were selections according to merit and it was resolved that such employees who were posted on promotional posts purely on merit, based on their performance at the L.C.E. shall be considered for further promotion based on seniority to be considered from the date they were selected and appointed on the higher posts.

(xvi) All the applicants are aggrieved by the fact that though according to them as laid down in the case of **Vijay Ghogare** there could not have been any promotion based on reservation policy and all the appointments so made were to be revisited pursuant to the directions of

the High Court, while considering the seniority for further promotion such employees who had derived the benefit of reservation while getting appointments on the promotional posts have been allowed to be considered for further promotions based on such seniority acquired by them illegitimately and illegally.

6. The learned advocate for the applicants would take us through the papers to reveal the aforementioned history. Their submissions are that the State Government has been unsure as to what stand it has to take. In spite of being alive to the fact that the Supreme Court has not stayed the operation of **Vijay Ghogare**, it did not take any corrective steps as was directed therein. It had also consistently taken the stand that such promotions cannot be granted based on reservation by filing the affidavits in few earlier matters. But abruptly & illegally has taken a diagonally opposite stand while contesting these matters.

7. Original application no.1064 of 2022 was filed by Smt. Manisha Jamdade, Shri Sunil Tambe and Smt. Deepali Sonavane and original application no.1306 of 2022 was filed by Smt. Sushma Amol More and Shri Yogesh Wasnik. All of them are respondents in O.A.No.843 of 2025. Both were decided by a common judgment and order dated 17.07.2023. The State Government had taken a stand in those original applications that even if selection through L.C.E. was merit based it was a promotion. The learned advocates would further submit that in fact the stand of the contesting respondents was the same in their original application nos.1064 of 2022 & 1306 of 2022. The division bench of the Tribunal had considered that stand and concluded that their selection to the post of Assistant Section Officer through L.C.E. was also adversely affected by **Vijay Ghogare**. The decision of that division bench would bind this division bench. Though it is under challenge before the High Court its operation has not been stayed.

8. Learned advocates for the applicants would thus submit that the State Government has resiled from its consistent stand all throughout, while issuing the G.R. dated 29.07.2025 and while filing the affidavit-in-reply in these proceedings.

9. Learned C.P.O. as also learned advocate Shri Desai who made extensive arguments submitted that there is a marked distinction between 'promotion' and 'selection', particularly in the light of relevant Rule 3 of PSI and ASO, recruitment rules which are analogous. They would emphasis on terminology used by the legislature in Clauses (a), (b) and (c), providing for three different feeder cadres for being appointed to the post of PSI and ASO. They would submit that similar provisions can be found in many other recruitment rules. Some posts are reserved to be filled in by way of 'Promotion' based on seniority and suitability. Some percentage of posts are reserved to be filled in by way of 'Selection' from amongst existing employees through L.C.E. and some percentage of posts are earmarked, to be filled in by 'Nomination' also termed as direct recruitment. They would submit that selection through L.C.E. is purely based on merit and cannot be regarded as a promotion. It is a special stream made available to the meritorious employees who stand out by their performance, intelligence and knowledge. This is resorted especially to provide for an access to the higher posts and in order to avoid stagnation. Though it is a selection to higher post from amongst the existing employees, this cannot be regarded as equivalent to promotion. Treating it as promotion would obliterate the very foundation of the concept of selection through L.C.E. When the contesting respondents and similarly placed employees could, based on merit, got selected and were appointed on the higher posts, it cannot be regarded as promotions much less by resorting to a policy of reservation. They would submit that **Vijay Ghogare** cannot be regarded as holding selections through L.C.E. as having been made pursuant to G.R. dated

25.05.2004. It would apply only to such promotions which were made by resorting to reservation.

10. Having heard both the sides extensively, and having perused the papers we proceed to assign our reasons.

11. There cannot be a debate about what **Vijay Ghogare** decides. It has struck down the G.R. dated 25.05.2004 holding it to be *ultra vires* Article 16(4-A) of the Constitution of India and contrary to **M. Nagaraj**. Admittedly, the High Court had also directed appropriate steps to be taken consequent upon such declaration, in respect of promotions given by providing reservations based on G.R. dated 25.05.2004. Obviously, the issue as to whether the selections through L.C.E. was in fact to be regarded as promotion or is it based on seniority and suitability was not the subject matter before the High Court.

12. Though, linguistically, there is a marked distinction between 'Promotion' which is based on seniority and suitability and 'Selection' through L.C.E. which is purely based on merit and the two constitute different feeder cadres under Rule 3 of the PSI rules and ASO rules, one cannot lose sight of the fact that only the existing employees become eligible to get selected through L.C.E. and the scheme is aimed at providing suitable avenue for reaching higher posts in the hierarchy of posts in the department, by skipping seniority and based on merit, such selection through L.C.E. is also appropriately and interchangeably referred to as an 'accelerated promotion'.

13. Therefore, though such selection is purely based on merit it continues to carry a tag of promotion, since a junior employee from the department on his merit is able to occupy a higher post with the same department, bypassing the seniority. It is certainly not an appointment by nomination or direct recruitment.

14. In this context it would be appropriate to refer to the observations of the High Court and particularly, the stand that was taken by the learned Advocate General for the State of Maharashtra, in **writ petition no.3945/2019 & Ors, in the matter of Shri Santosh Pandurang Lokhande Versus State of Maharashtra and Others dated 18.10.2019**. It was a matter pertaining to selection through L.C.E. under Rule 3(b) of PSI Rules. The original applicants were seeking substitution in place of contesting respondents, in the light of **Vijay Ghogare**. Conspicuously, the High Court had considered the purport of **Vijay Ghogare** and the statement of learned Advocate General was recorded in paragraph no.10 :-

*“10. The learned Advocate General submitted that in view of the aforesaid pronouncement of the Supreme Court and the fact that the decision of this Court in the case of **Shri Vijay Ghogare & Ors. (Supra)** striking down the Government Resolution dated 25th May 2004, which provided for reservation in promotion, the legal position which currently holds the field is that the State cannot provide for reservation in promotion. To this extent, the submission on behalf of the petitioner cannot be faulted at, urged the learned Advocate General, with usual candour.”*

15. Though the learned Advocate General defended the writ petition on few other grounds, while considering the stand of the State based on the affidavit filed by the Deputy Secretary of M.P.S.C. after going through the category wise cut-off marks and ultimately noticing that 309 candidates who had secured less than 43 marks from ST and NT-C category were allowed to appear for the main examination and out of those only 18 candidates had succeeded in the main examination, the High Court then reproduced the stand of the learned Advocate General in paragraph no.14 as under :-

“14. The learned Advocate General, in the light of the aforesaid position, made a categorical statement that the aforesaid 18 candidates, who have been declared successful in the Main Examination, would not be selected and their names would be removed from the final select list as they would not have been eligible to appear for the Main Examination, but for the application

of the principle of reservation. In the additional affidavit of Mr. Vipul Pawar, the aforesaid statement made by the learned Advocate General is reiterated.”

16. Though ultimately writ petition was dismissed on the ground that the selection process had reached an advanced stage and even otherwise the petitioners would not have become eligible for appearing in main examination, following observations in paragraph no.19 were made which need a specific reference :-

“19. The conspectus of the aforesaid consideration is that, firstly, despite the application of the principle of reservation, the candidates, who had secured 42 marks, like the petitioner, would not have become eligible for the Main Examination. Secondly, in view of the statement made by the learned Advocate General that 18 candidates belonging to the Scheduled Caste and NT-C category, who have been declared successful in the Main Examination, would not be included in the final select list, there would be no promotion on the basis of reservation. In this view of the matter, in exercise of the writ jurisdiction, we are not inclined to interfere with the selection process, especially, at such an advanced stage, and at the instance of the petitioner who would not have become eligible for the Main Examination in any event. Resultantly, the impugned judgment does not warrant any interference, though we have not examined the correctness of the legal proposition expounded therein.”

17. It is necessary to emphasise, as is mentioned hereinabove, implication of **Vijay Ghogare** was considered by the High Court. It was also the matter of selection through L.C.E. and still the High Court had reached the aforementioned conclusion, that too based on the stand of learned Advocate General.

18. Reverting to O.A.Nos.1064 & 1306 of 2022 filed by the private respondents, a similar issue had cropped up as is in these matters in hand. The division bench formulated the issue in paragraph 2 of the judgment which reads as under :-

“2. First issue posed for consideration in these O.As is whether selection through Limited Competitive Examination (LCE in short) conducted in terms of Rule 3(b) of Departments of Mantralaya (Recruitment) Rules, 1995 (hereinafter referred to as 'Recruitment Rules of 1995' for brevity) is by way of promotion or can be treated as direct recruitment and secondly, whether Applicants' claim in O.A.1064/2022 and 1306/2022 for promotion to the post of Desk Officer is acceptable in the light of Judgment of Hon'ble Bombay High Court delivered in **Writ Petition No.2797/2015 [State of Maharashtra Vs. Vijay Ghogare] on 04.08.2017** (hereinafter referred to as '**Vijay Ghogare's case**' for brevity) whereby G.R. dated 25.05.2004 is struck down to the extent it makes provision for reservation in the matter of promotion being ultra-virus to Article 16(4-A) of the Constitution and contrary to law laid down in **Writ Petition (Civil) No.61 of 2002 [M. Nagaraj & Ors. Vs. Union of India & Ors.]**.

19. The applicants therein were none other than the contesting respondents herein. They had raised a grievance about non consideration of their candidature for promotion to the post of Desk Officer and were soliciting a direction to the respondent-Government. The issue was whether they had derived the benefit of reservation while getting selected through L.C.E. It is pertinent to note the stand that was taken by learned C.P.O. reproduced in paragraphs 20 and 21 of the judgment :

“20. Per contra, Smt. S.P. Manchekar, learned Chief Presenting Officer urged that selection through LCE is not from open market and it is restricted to the candidates who are in service and in terms of Rule 3(b) of Recruitment Rules of 1995', it is accelerated promotion and at the same time, it is not purely merit based but on the basis of benefit of reservation, since 33% posts were reserved to fill-in the posts of Assistant Section Officers from reserved categories. She has further pointed out that Law and Judiciary Department of State of Maharashtra has also given opinion that the appointment through LCE is accelerated promotion. The perusal of opinion of Law and Judiciary Department reveals that the opinion was given based on the decision of Hon'ble High Court of Delhi given in Writ Petition No.2887/2012 (Man Singh Vs. Union of India & Ors.) decided on 21.12.2012. Para Nos.6, 7 and 8 of the opinion given by Law and Judiciary Department is relevant, which is as under :-

"6. The question now posed by the General Administration Department is whether such appointment of the Assistant Desk Officer through the limited departmental competitive examination be made after following the reservation policy or otherwise.

7. Once, it is held that the appointment of the Assistant Desk Officer through the limited departmental competitive examination falls within the category of promotion, than, naturally the set of rules applicable for appointment through promotion will be applicable to such appointments. The Hon'ble High Court, Bombay in the matter of reservation in promotion has delivered a judgment on 4th August, 2017. The legal position and the consequent actions required to be taken pursuant to the orders of Hon'ble High Court dated 4th August, 2017 is clarified in this Department's earlier UORs dated 24.11.2017 and dated 04.04.2018 and the opinion of Ld. Advocate General dated 15.12.2017 in the matter. Further, while considering the matter of appointment of PSI through the limited departmental examination, this Department vide UOR No.53-2018/E, dated 15th January, 2018, after referring to the opinion of Ld. Advocate General dated 15th December, 2017 has opined that a reservation in promotion cannot be granted. It is further opined that, all the promotional posts are required to be filled in without any reservation. It is further opined in that case, that the orders of promotion of the Police Sub-Inspector selected through the departmental examination have to be issued as per merit list, without any reservation. It is also opined that the action of providing reservation in promotion and sending the candidates from the reserve category (who got promotion because of policy of reservation contained in the Government Resolution dated 25th May, 2004 and the attendant concessions and relaxations, and not otherwise on merit) for training does not appear to be in consonance with the decision of Hon'ble High Court dated 4th August, 2017 in Writ Petition No.2797/2015.

8. In view of the above legal position, the appointment to the post of Assistant Section Officer through limited departmental examination is required to be made on merit and without following the reservation. The fact that the process was completed and recommendations were made by the MPSC before the pronouncement of judgment in Writ Petition No.2797/2015 will not be of no consequence."

21. The learned CPO thus sum-up that since Applicants in O.A.Nos.1064/2022 and 1306/2022 have already taken the benefit of reservation on the basis of G.R. dated 25.05.2004, which is struck down by Hon'ble High Court, now they cannot ask for promotion to the post of Section Officer at least until the final decision of Hon'ble Supreme Court in **Vijay Ghogare's** case."

20. It is also pertinent to note that there is enough record to demonstrate that even the State Government, for all this while, since decision in **Vijay Ghogare** was of consistent view, as was amplified in the submissions of learned Advocate General before the High Court (supra) and through the learned C.P.O. before the Tribunal while deciding O.A.Nos.1064 & 1306 of 2022, that, indeed, **Vijay Ghogare** was an impediment in providing for reservation even in the matter of selection through L.C.E. The G.R. dated 04.04.2018 (supra) sufficiently amplified State's stand which prevented resorting to any selection through L.C.E. by applying reservation.

21. In this regard, it is pertinent to note that in O.A.No.394/2018, Mr. Santosh Bapurao Rathod & Ors. Versus The State of Maharashtra & Ors.) dated 06.11.2018 the Tribunal had held that in view of the decision of the Supreme Court in the matter of **Jarnail Singh & Others Vs. Lachhmi Narain Gupta & Ors (2017), SCC Online Bombay 7398, Vijay Ghogare** stood impliedly overruled but dismissed the original application of the original applicants therein who were from reserved category and were seeking to be sent for training for the post of PSI pursuant to the L.C.E. examination of 2016. They challenged that decision in **writ petition no.13227 of 2018, Mr. Santosh Bapurao Rathod & Ors. Versus The State of Maharashtra & Ors.** which was dismissed by the Bombay High Court by the judgment and order dated 20.03.2024. It would suffice merely to refer to the relevant observations touching the issue in question. Paragraphs 29 & 30 of the judgment read as under :-

29. Now coming to the action of Respondent No.1-State in sending candidates from reserved category for training and on realising that the same would be contrary to the decision of this Court in the case of Vijay Ghogre (supra), sending another 154 candidates from open category for training and on confirming the same, the Respondent No.1- State has submitted before us that in the appointment letter to the reserve category candidate and an undertaking from the open category candidates, it is informed that their promotion would be

subject to the outcome of the decision of the Supreme Court in the case of Vijay Ghogre (supra). Admittedly, the Respondent No.1-State was not justified in sending candidates from the reserved category, contrary to the decision of this Court. However, on realising the same, they have sought to rectify their mistake by sending another batch from the open category. By the time they realised this mistake, they could not have called the reserved candidates back and, therefore, they decided to send a contingent batch from the open category. The confirmation of the candidates from both these batches would be subject to the outcome of the Supreme Court in the case of Vijay Ghogre (supra). If the decision of this Court in the case of Vijay Ghogre (supra) is confirmed by the Supreme Court then the candidates sent from the reserved category will have to be reverted to their original post as per the appointment letter given to them by the State. If the Supreme Court reverses the decision of this Court in the case of Vijay Ghogre (supra), then the open category candidates will have to be reverted to their original post since they too have given an undertaking to Respondent No.1-State that their promotion is subject to the outcome of the decision of the Supreme Court. Therefore, in our view, it would not be correct to uphold the contention of the Petitioners that as against 828 notified vacancies, the Respondent No.1-State has created additional 154 vacancies by sending candidates from the open category and, therefore, the total candidates selected for promotion is 982 as against 828 notified. This is so because the two batches of 154 candidates from reserved category and open category were sent to rectify the mistake committed by State, which is more particularly described by us above and with an undertaking/appointment letter that 154 candidates from either batch would be promoted subject to the decision of the Supreme Court in the case of Vijay Ghogre & Ors. (supra). This stand of the Respondent No.1-State is evident from their Affidavit in O.A. No.320 of 2018 dated 20th August 2018. The communication of Respondent No.1-State to Respondent No.4-DGP dated 5th March 2018 and communication dated 16th March 2018, wherein it is clarified that the 154 candidates would be subject to the outcome of the decision in the case of Vijay Ghogre (supra) by the Supreme Court. Insofar as the contention of the Petitioner that 154 supernumerary posts have been created is concerned, the said supernumerary posts as rightly contended by Respondent No.1-State have been created only for the purpose of remuneration during training period and same is evident from the communications dated 31st March 2018 and 18th May 2018 of Respondent No.1-State. Therefore, we cannot accept the contention of the Petitioners that by creating supernumerary posts, the State has increased the number of notified vacancies from 828 to 982.

30. *The next issue which arises is whether LDCE-2016 is a promotion of in-service candidates or a direct recruitment. The advertisement dated 27th June 2016 issued was on the basis that it is a promotional position since the said advertisement provided for reservation at 33%. If the advertisement was for direct recruitment then higher reservation of 50% would have been provided and since only 33% was provided, LDCE-2016 is a selection by promotion of in-service candidates and not the case of direct recruitment. The reserved category candidates did not object to the same at any stage of the proceedings and therefore, today in the present petition cannot contend that it is the case of the direct recruitment. Furthermore, the reserved category candidates also did not raise this issue before the Tribunal but on the contrary, they proceeded before the Tribunal on the correct premise that it is the case of the promotion by placing reliance on the decision in case of Vijay Ghogre (supra). Therefore, the conduct of the reserved category candidates clearly demonstrates and rightly so that LDCE-2016 is a selection by promotion of in-service candidates and not a direct recruitment. Reliance placed by the learned Advocate Dr. Mane on the decision of the Supreme Court in case of Pavnesh Kumar Vs. Union of India 9 supports the case of the respondent-State that LDCE-2016 is a mode of accelerated promotion though not normal mode of promotion. The Supreme Court in case of Akhilesh Prasad Vs. Jharkhand Public Service Commission 10 has also held that LDCE is a promotional exercise which gives an opportunity of accelerated promotion and it is not the case of a direct recruitment. This Court in the case of Sushant Salvi (supra) has also held that LDCE-2016 is selection by promotion of inservice persons. The Government Resolution of 27th June 2016 also states so. The requisition dated 2nd June 2016 by Respondent No.1- State to Respondent No.6-MPSC and opinion of Law & Judiciary Department also reiterates that it is selection by promotion of in-service candidates. In our view, LDCE-2016 cannot be said to be process of direct recruitment but it is selection by promotion under Rule 3(b) of the aforesaid Recruitment Rules. Therefore, the LDCE-2016, in our view, is selection by promotion falling under Rule 3(b) of the Police Sub-Inspector Recruitment Rules, 1995.”*

These observations make it abundantly clear that the State Government and its departments were of the view that selection through L.C.E. was also adversely affected by **Vijay Ghogare**. Even the High Court had upheld such stand.

22. Again, a reference to the affidavit filed by the Deputy Secretary in the office of the Home Department in O.A.No.320/2018 in the matter of Narendra Raghunath Thakur Versus State of Maharashtra & Ors. buttresses our observation that the State Government and its departments have been consistently treating that quashment of G.R. dated 25.05.2004 in **Vijay Ghogare** affected even the reservation in the matter of selection through L.C.E. be it, the Police Sub Inspector Recruitment Rules, 1995 and Assistant Recruitment Rules, 1995. Paragraphs 3.1, 15(1), 16, 17, 17(i), 20, 21 and 22 of that affidavit read as under :-

“3.1 I say and submit that, the Government Circular, Home Department dated 04/04/2018 is related with the Police Sub-Inspector limited departmental competitive examination - 2017. The result of the main examination of the Police Sub-Inspector limited departmental competitive examination 2017 was declared on 06/04/2018 by considering all 322 post as per merit without any reservation. The further process of the said examination has been kept in abeyance in view of the proceeding of O.A.No.387/2018 (Santosh Pandurang Lokhande V/s State of Maharashtra and Ors.) filed in Maharashtra Administrative Tribunal, Mumbai.

15.1 I say that in reply to the above question, Respondent has already filed an affidavit on 06/06/2018 before this Hon'ble Tribunal and submitted that appointment on the post of Police Sub-Inspector through the Limited Departmental Examination is the nature of accelerated promotion. I crave leave of Hon'ble Tribunal to refer to and rely upon the same.

16. With reference to paragraph no. 7 (8). I say and submit that the Hon'ble High Court vide its judgment dated 04/08/2017 set aside the G.R. dated 25/05/2004 issued by G.A.D. providing reservation in promotion. The operation of said judgment is not stayed by the Hon'ble Supreme Court in the challenge made by the State. Therefore in view of the position mentioned in reply to para 6.16 above, the Respondent has rightly taken a decision to send 154 candidates for PSI training as per prevailing rules, subject to outcome of SLP pending in the Hon'ble Supreme Court.

17. With reference to paragraph no. 7 (9), I say and submit that as mentioned earlier in reply to para 6.16 above Respondent has obtained the opinion of the Law and Judiciary Department in the matter which clarifies that, "in view of the decision of Hon'ble High Court dated 04/08/2017, which is holding the field on date, the

reservation in promotion cannot be granted. All the promotional posts are required to be filled up without any reservation. Therefore, the Director General of Police ought to, have issued orders of promotion of the Police Sub-Inspector selected through the Limited departmental examination as per merit list, without any reservation. The action of providing reservation in promotion and sending 186 candidates from the reserved category (who got promotion because of policy of reservation contained in the Government Resolution dated 25th May, 2004 and the attendant concessions and relaxations, and not otherwise on merit) for training does not appear to be in consonance with the decision of Hon'ble High Court (dated 04/08/2017 in Writ Petition No.2797/2015."

17.1 Therefore in view of the above opinion, the Government has decided to sent 154 candidates as per merit, subject to outcome of SLP (C) No.28306/2017 (State of Maharashtra Vis Vijay Ghogre and. Ors.). Hence the contention of the applicants in this para is not correct and denied.

20. With reference to paragraph no. No.7 (13), I say and submit that on the issue of "Whether process of entry in the cadre. of P.S.I. through the channel laid down in rule 3(b) of PSI Recruitment Rules 1995 constitutes a channel of direct recruitment/Selection or Promotion". the Respondent No.1 has already filed an affidavit on 06/06/2018 before this Hon'ble Tribunal. I crave leave of the Hon'ble Tribunal to refer to and rely upon the same.

21. With reference to paragraph no. No.7 (14), I say and submit that in view of Hon'ble High Court's judgment dated 04/08/2017 setting aside the G.R. dated 25/05/2004 issued by G.A.D. providing reservation in promotion and the operation of said judgment is not stayed by the Hon'ble Supreme Court in the challenge made by the State, as of today there is no reservation in promotion. Therefore the impugned action of the respondent cannot be said as arbitrary and illegal.

22. With reference to paragraph no. No.7 (15), I say and submit that taking in to consideration of the issue raised in O.A. No.13/2018 and decision taken by the Government on the said issue the Respondent No.1 has reconsidered the matter of Police Sub-Inspector limited departmental competitive examination 2017 and issued Circular dated 04/04/2018 to fill up the post of Police Sub-Inspector in limited departmental competitive examination 2017 on merit without any reservation. In such situation, it would be incorrect to say that action of the respondents is not that of model employer and arbitrary."

23. In view of above state of affairs, we are in respectful agreement with the view taken by the division bench of the Tribunal in O.A.Nos.1064 & 1306 of 2022 (supra). Apart from the fact that since these contesting respondents were the applicants therein and the decision in those original applications would bind them, we see no reason and reasonable basis to take a different view than that was taken by the division bench which held that the selection through L.C.E. is an accelerated promotion.

24. Apart from the reasoning resorted to by the division bench while deciding O.A.Nos.1064 & 1306 of 2022, even the advertisement dated 11.07.2011, (Exhibit-D in O.A.No.843/2025), pursuant to which such selection had occurred itself had provided for and notified the posts which were reserved for different categories. This circumstance further justifies the conclusion in O.A.Nos.1064 & 1306 of 2022. The stand being taken by the respondent departments in their affidavits-in-reply now, is clearly inconsistent with the stand of the State before the High Court as was taken through the learned Advocate General (supra) the learned C.P.O. who represented them in O.A.Nos.1064 & 1306 of 2022 as also the affidavit filed on their behalf in O.A.No.320/2018.

25. Learned advocate Shri Desai through his elaborate argument tried to convince us as to how the challenge to Reservation Act 2001 was turned down by the High Court in **Vijay Ghogare** and as to how the reservation was resorted to in the matter of promotion even prior to G.R. dated 25.05.2004. He also submitted that the decision in O.A.Nos.1064 & 1306 of 2022 over looked the judgment of Supreme Court in **Pavnesk Kumar Versus Union of India, (2023) 20 SCC 393**.

26. In fact **Pavnesk Kumar (supra)** was decided at a later point of time on 28.09.2023 whereas O.A.Nos.1064 & 1306 of 2022 were decided on 17.07.2023. Besides, in the matter of **Pavnesk Kumar (supra)** the

Appellant before the Supreme Court was declared medically unfit for promotional post when he applied through L.C.E. and in that context it was his case that since he was already declared medically fit in the original cadre, he should not have been made to undergo such medical fitness test again. It was his case that the appointment through L.C.E. was like a fast track promotion and was not a fresh appointment therefore the recruitment rules and guidelines applicable to the normal mode of promotion should have been applied and not any different medical standard.

27. In the process of consideration of such a line of argument and stand of the Appellant it was observed that accelerated promotion through L.C.E. could not be equated with normal mode of promotion. *Ex facie*, it is in the back drop of such state of affairs and the fact situation, the observations were made by the Supreme Court.

28. In the matter in hand, demonstrably the contesting respondents from original application no.843 of 2025 were selected through L.C.E. and they could be so selected by resorting to reservation as has been held by the Tribunal in the order passed in O.A.Nos.1064 & 1306 of 2022.

29. What emerges from the above is the fact that the State Government and its departments have resorted to providing reservation in the matter of promotions including those which have been granted by way of selection through L.C.E. It issued G.R. dated 25.05.2004 which was struck down as invalid in **Vijay Ghogare**. It has been challenged before the Supreme Court, way back in the year 2017. Its operation has not been stayed. The State Government and its departments stayed their hands and did not resort to any further promotions with the stand that they could not do so in the teeth of **Vijay Ghogare**, took such stand before the High Court through learned Advocate General and before this

Tribunal through learned C.P.O. and still resiled from such consistent stand and have passed G.R. dated 29.07.2025 which is under challenge in these original applications.

30. It is apparent that such of the employees who were selected through L.C.E. and have derived the benefit of reservation could not have, but have been sought to be conferred with seniority from the date of their appointments by way of selection through L.C.E., which has to be regarded as illegal.

31. It is a matter of perpetuating the illegality. The State and its departments would have been well advised to take steps for early decision of the Supreme Court in the matter of **Vijay Ghogare** or could have made an attempt to seek directions from the Supreme Court. In fact, this was precisely proposed when the Tribunal was deciding O.A.Nos.1064 & 1306 of 2022 and it was expressly observed that the Tribunal could not issue such direction and it was for the State and parties to take appropriate steps. Instead of doing that the impugned G.R. dated 29.07.2025 has been issued creating a volatile situation.

32. We therefore have no hesitation in holding that the G.R. dated 29.07.2025 is illegal and is liable to be quashed and set aside.

33. It is further necessary to note that admittedly the steps were initiated by the office order dated 02.01.2025 for granting promotions to the suitable employees under the Section Officer Rules for making promotions to the post of Section Officer. Without taking it further to the logical conclusion it was abruptly stalled and was injuncted by passing the impugned G.R. dated 29.07.2025.

34. In fact the select list was prepared for granting promotion to the post of Section Officer. 59 were appointed by way of promotion on 04.07.2025 and promotion had remained to be granted to 15 individuals because of impugned G.R. dated 29.07.2025. If the process had already started for granting promotion to the post of Section Officer based on their appointment in the original cadre, like 59 others, even remaining 15 could have been granted promotion since they were forming part of the same process, four of them are before us in O.A.No.885/2025 and remaining are the original applicants in O.A.No.843/2025.

35. As regards the recruitment to the promotional posts from the Police Department, it is being prayed for in O.A.No.834/2025, by way of consequent relief to injunct the respondents therein from undertaking any exercise contrary to **Vijay Ghogare**. In view of above, all the original applications deserve to be allowed.

36. The original application nos.834, 843 & 885 of 2025 are allowed.

37. The Government Resolution dated 29.07.2025 is quashed and set aside.

38. The respondent-General Administration Department shall conclude the process for granting promotions to the post of Section Officer to the selected candidates from the select list of the year 2024-25, as expeditiously as possible and in any case within four weeks, by issuing the appointment orders to the selected candidates.

39. Respondent nos.1 to 5 from O.A.Nos.834 & 843 of 2025 shall desist from taking any steps contrary to the decision in the matter of **Vijay Ghogare** till challenge to it is pending before the Supreme Court.

40. The miscellaneous applications are disposed of.

Sd/-
(A.M. Kulkarni)
Member (A)
25.09.2025

Sd/-
(Mangesh S. Patil, J.)
Chairman
25.09.2025

After pronouncement of the judgment learned advocate Shri Desai for the contesting private respondents would pray for stay of the operation of the judgment and order for the reasonable time to enable them to approach the High Court.

2. Learned C.P.O. also make the same request.

3. Considering the reasoning which we have assigned, particularly basing our decision, *inter alia*, on the observations of the High Court in the judgment and order passed in **writ petition no.13227 of 2018, Mr. Santosh Bapurao Rathod & Ors. Versus The State of Maharashtra & Ors.**, holding that the State was not justified in sending the candidates from the reserved category for training and it was contrary to the decision in **Vijay Ghogare**, we are of the considered view that the operation of the judgment and order cannot be stayed.

4. The request is rejected.

Sd/-
(A.M. Kulkarni)
Member (A)
25.09.2025

Sd/-
(Mangesh S. Patil, J.)
Chairman
25.09.2025