

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION (ST) NO. 93759 OF 2020  
WITH  
INTERIM APPLICATION (ST) NO. 96680 OF 2020**

Yogesh Prakash Morbale : Petitioner

**Vs.**

The Registrar, Maharashtra  
Administrative Tribunal & Ors. : Respondents

**WITH  
PUBLIC INTEREST LITIGATION NO. 199 OF 2013**

Kanhaiya Vasant Mahamuni : Petitioner.

**Vs.**

State of Maharashtra & ors. : Respondents.

Mr. Yashodeep Deshmukh a/w Ms. Vaidehi Deshmukh, Mr. Vinod Sangvikar and Ms. Namrata Vora for Petitioner in WPST/93759/2020.

Mr. Sumit Kate i/by Dr. Uday Warunjikar for Petitioner in PIL/199/2013.

Mr. M. M. Pabale, AGP for Respondent No.1 in PIL/199/2013 and for Respondent Nos.4 to 7 in WPST/93759/2020.

Mr. Y. R. Mishra a/w Mr. N. R. Prajapati for Respondent No.2 in PIL/199/2013.

Ms. Shyamali Gadre a/w Ms. Harshita Bhanushali i/by Little & Co. for Respondent No.8 (MMRCL) in WPST/93759/2020.

Mr. Amrut Joshi for OSD (Legal) Registrar, MAT in WPST/93759/2020.

Mr.Suresh Joshi OSD (Legal)/Registrar, MAT is present.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &  
ARIF S. DOCTOR, J.  
DATE : 02<sup>nd</sup> AUGUST, 2023**

**P.C. :**

One of the Issues raised and involved in these Petitions is the vacancies in the Maharashtra Administrative Tribunal. As per the response to the Petition filed by the Registrar of the Tribunal, a recommendation for appointment of two Judicial Members was already sent to the Government of India in the Month of June 2023. In addition, another recommendation for appointment of two Administrative Members, one at Nagpur Bench and another at Aurangabad Bench, was sent on 19<sup>th</sup> July 2023. However, final decision in the matter by the Government of India is awaited.

2. The process of selection of the Chairperson and Members of the State Administrative Tribunal is governed by the statutory prescription available in The Tribunal Reforms Act, 2021 which has been enacted by the Parliament. According to subsection 3 of Section 3 of the said Act a Search-cum-Selection Committee is constituted for the purpose of making recommendations for filling up the vacancies in the State Administrative Tribunal. The said Search-cum-Selection Committee comprises of the Chief Justice of the High Court of

the concerned State, the Chief Secretary of the Concerned State Government, the Chairman of the Public Service Commission of the concerned State and one member. The Secretary or the Principal Secretary of the General Administration Department of the concerned State acts as a Member Secretary of the Search-cum-Selection Committee.

3. Subsection 7 of Section 3 of the said Act provides that the Search-cum-Selection Committee shall recommend a panel of two names for appointment to the post of Chairperson or Member, as the case may be, and the Central Government shall take a decision on the recommendations made by the Committee, preferably within three months from the date of such recommendation.

4. We have been informed that the Search-cum-Selection Committee constituted under Section 3(3) of the said Act made its recommendations for filling up the aforesaid four vacancies on 24<sup>th</sup> April 2023, however, the State Government took some time in sending the recommendations to the Central Government, and accordingly first recommendation was sent by the State Government to the Central Government in June 2023 and the second recommendation was sent on 19<sup>th</sup> July 2023. If the recommendation to the Central Government was made on 24<sup>th</sup> April 2023 and as per the statutory mandate as contained in Section 3(7) of the said Act, the Central Government is required

to take a decision preferably within three months, by now the decision ought to have been taken. However, there appears to be slackness on the part of the State Government in sending the recommendations to the Central Government which has resulted in delay in the appointment of the Members of the Tribunal, both judicial and administrative.

5. The State Administrative Tribunal is a statutory Tribunal created under the Administrative Tribunals Act, 1985 and discharges judicial functions in relation to the service disputes of the State Government Employees.

6. Considering the nature of the functions and duties performed by the State Administrative Tribunal, slackness on the part of the authorities in filling up the vacancies in the office of the Members cannot be approved of.

7. Learned Counsel representing the Central Government, on the basis of the instructions, has submitted that the recommendations having been received from the State Government in respect of the four vacancies, the Central Government is to verify the antecedents of the persons recommended, and thereafter matter has to be taken up by the Appointment Committee of Cabinet (ACC) and this process is likely to take three months' time.

8. Having considered the said submission and having taken into account the overall facts, which are present before us, we are of the opinion that, the vacancies in the post of Members of Administrative Tribunal should be filled in at the earliest. Thus considering the urgency in the matter, we expect that the final decision in the matter on the recommendations made by the Search-cum-Selection Committee shall be taken by the Central Government by the end of 1<sup>st</sup> week of October 2023.

9. Learned counsel representing the Mumbai Metro Rail Corporation Limited (MMRCL) states that the lease of the premises in which the Maharashtra Administrative Tribunal is functioning currently had come to an end in September 2022. However, now a new agreement is to be entered into. Such an agreement may be lease or leave and license agreement. She drew our attention to paragraph 2 of the order passed by this Court on 25<sup>th</sup> October 2016 in this matter wherein a direction was issued that the lease agreement shall be executed only after the learned Chairman of the Maharashtra Administrative Tribunal approves the plans, and submitted that because there is a direction for execution of the lease agreement, the parties are unable to take final decision as to whether lease agreement is to be entered into or the leave and license agreement is to be executed. She prays that the order dated 25<sup>th</sup> October 2016 may accordingly be modified.

10. In terms of the order dated 25<sup>th</sup> October 2016 passed by this Court lease agreement was already entered into, term of which has also come to an end as far back as on 9<sup>th</sup> September 2022. Thus the order dated 25<sup>th</sup> October 2016, in our opinion, does not come in the way of the parties to take a decision about the form of the agreement which they intend to enter into/execute.

11. Concern has been raised that on account of the vacancies in the office of the Members of the Tribunal, the Division Benches of Tribunal at Nagpur and Aurangabad are not functioning and such matters which are cognizable by the Division Benches of the Tribunal are transferred to Mumbai in case of urgency, however, the video conferencing facility is not available which prevents the litigants to seek redressal of their grievances.

12. Mr. Suresh Joshi, OSD (Legal)/Registrar, Maharashtra Administrative Tribunal is present in Court today. He assures the Court that he shall take adequate steps to ensure that the Administrative Tribunal functions in Hybrid mode. We record his statement accordingly.

13. At this juncture we may also record certain observations made by this Court in its order dated 19<sup>th</sup> July 2023 wherein it was observed that, "if there is a shortage of

infrastructure because of which the virtual hearing cannot be provided, we have no doubt that the Chairperson of the Tribunal would make necessary request to the State Government." The Court had also expressed that it had no doubt that the State Government will extend all possible assistance. We thus reiterate our observations in that regard and expect that the State Government shall extend all possible assistance. It has been informed at the Bar that the proposal has already been forwarded in this regard by the Hon'ble Chairperson to the State Government. The State Government, thus, look into the proposal and take prompt decision keeping in view the observations made in our order today.

14. List/put up this case on 11<sup>th</sup> October 2023.

**(ARIF S. DOCTOR, J.)**

**(CHIEF JUSTICE)**