



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

**WRIT PETITION NO. 17202 OF 2025**

1. Bipin Vasant Shinde  
Age-54 years, Occ. Service,  
Residing at Plot No.36,  
Shivparsad Housing Society,  
Sinhgad Road, Pune 411030

2. Rohidas Nivrutti Gavhane  
Age-56 years, Occ. Service,  
Residing at 501, Guruprasad  
Apartment, Opp. Joshi Sweets,  
Bharatkunj Colony No.1, Erandwane,  
Pune 411004

3. Mukund Chintaman Barve  
Age- 56 years, Occ. Service,  
Residing at Survey No.9/2, B801,  
Soham Riviria, Wadgaon Budruk,  
Sinhgad Road Pune – 411051

4. Ajay Dattatraya Wayse  
Age- 54 years, Occ. Service,  
Residing at Priyadarshan Apartment,  
Hadapsar, Gadital, Pune 411028

...Petitioners

**Versus**

1. Pune Municipal Corporation  
through Municipal Commissioner  
Shivajinagar, Pune 411005

2. Departmental Promotion Committee (DPC)  
through Head of DPC  
Municipal Commissioner  
Pune Municipal Corporation  
Shivajinagar, Pune 411005

3. Abhijeet Arun Ambekar  
Age – 54 years, Occ. Service,

Having address at Shivaji Nagar  
Pune 411005

4. Pravin Gajanan Shende  
Age – 53 years, Occ. Service,  
Having address at Shivaji Nagar  
Pune 411005

5. Bhausaheb Shrirang Shelar,  
Age – 55 years, Occ. Service,  
Having address at Shivaji Nagar  
Pune 411005

6. Rajendra Marutrao Jadhav,  
Age – 53 years, Occ. Service,  
Having address at Shivaji Nagar  
Pune 411005

...Respondents

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Mr. Anil Anturkar, Senior Counsel a/w Mr. Bhushan G. Deshmukh, Mr. Aryan M. Deshmukh, Mr. Aniket Kanawade, Mr. Irvin D'zouza i/b Sugandh B. Deshmukh for Petitioner.

Mr. Abhijit P. Kulkarni a/w Mr. Gourav Shahane & Mr. Shreyas R. Zarkar for Respondent Nos. 1 & 2 – PMC.

Mr. Surel Shah, Senior Counsel i/b Mr. Pratik Deshmukh for Respondent Nos. 3 to 6.

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**CORAM : R. I. CHAGLA AND  
ADVAIT M. SETHNA, JJ.**

**RESERVED ON : 19 JANUARY, 2026  
PRONOUNCED ON : 03 FEBRUARY, 2026**

**JUDGMENT:- (PER ADVAIT M. SETHNA, J.)**

**Prologue :-**

1. This is a Petition filed under Article 226 of the Constitution of India seeking for the following substantive reliefs:-

*“[A] That this Hon’ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other*

*writ or direction thereby be pleased to quash and set aside the Impugned Order passed by the Respondent no. 2, Departmental Promotion Committee (DPC) of the Respondent - Corporation for the post of Superintending Engineer dated 11.12.2025 (EXHIBIT- O) and be pleased to direct not to make any promotion on the post of Superintending Engineer.*

*[B] That this Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other writ or direction thereby be pleased to quash and set aside the entire the promotion process conducted by the Respondent no. 1 and 2 for the post of the Superintending Engineer of the Respondent - Corporation and all the decisions taken by the Respondent Corporation in the promotion process conducted by the Respondent no. 1 and 2 for the post of the Superintending Engineer.*

*[C] That this Hon'ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order direct the Respondents to call for the confidential report of the Petitioner herein and to consider the case of the Petitioner for promotion to the post of Superintending Engineer of the Pune Municipal Corporation and not to exclude the case of the Petitioner from being considered for the promotion to the post of Superintending Engineer for the current year 2025-2026.*

*[D] That this Hon'ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order thereby declared that the alleged selection list of Executive Engineers of the Respondent Corporation is non est and illegal and thereby quashing and setting aside the alleged unpublished probable selection list and the General Body Resolution No.206 dated 19.09.2025 passed thereby the alleged selection list was prepared by the Respondent No.1 for promotion to the post of Superintending Engineer (EXHIBIT- S)."*

2. Rule. With the consent of parties the Rule is made returnable forthwith.

3. This is another contest in service jurisprudence where we are called upon to adjudicate the validity and legality of the promotion process,

culminating in issuance of a final seniority list. The Respondent Nos.1 and 2 have sought to refrain from giving effect to the same, on account of compelling reasons/circumstances. The proceedings revolve around promotions of the Petitioners who are working with the Pune Municipal Corporation i.e. Respondent No.1 to the post of Superintending Engineer (Civil).

4. The Petitioners are primarily aggrieved by the order dated 11 December 2025, passed by Respondent No.2 i.e. Departmental Promotion Committee, Pune Municipal Corporation (“**Impugned Order**” for short). Consequently, the Petitioners have been denied promotion to the post of Superintending Engineer (Civil). The fulcrum of the Petitioners’ contention is that the Impugned Order is cryptic, non-reasoned, non-speaking, inasmuch as it is contrary to the specific mandate and directions issued by a coordinate Bench of this Court vide an order dated 11 November 2025, in Writ Petition No.12046 of 2025 filed by Petitioner No.4 herein and another.

5. The Petitioners are seeking implementation of the final seniority list dated 11 September 2024 which entitles them to such promotion. On the other hand, the Respondents’ case in a nutshell is that there is a mistake/error which has crept in the publication of the final seniority list dated 11 September 2024. This is inasmuch as the promotions of the Petitioners to the post of Superintending Engineer (Civil) ought to be considered in accordance with their seniority as on 25 May 2004, as

decided by the DPC in the proceedings held on 2 September 2025. Accordingly, the date of initial entry into service/joining of the Petitioners in service of Respondent No.1-PMC ought to be the benchmark for promotions. In view thereof, the Respondents contend that the seniority list of 11 September 2024 though final, ought not to be implemented.

**Factual Matrix:-**

6. The Petitioners are graduate engineers (Civil) presently employed as Executive Engineers with the Respondent No.1-Pune Municipal Corporation (“PMC” for short).
7. The Petitioner Nos.1 to 4 joined the Respondent No. 1-PMC on 4 September 1996, 3 May 1997, 3 May 1997, and 9 November 1998 respectively, as Junior Engineers. Petitioner Nos.1 to 3 belong to the Open Category whereas Petitioner No.4 is from the Nomadic Tribe (NT-C) category.
8. The Petitioners were initially appointed in the pay scale of Sub-Engineer which is the next promotional post of Junior Engineer. The recruitment to the post of Junior Engineer was initially done from diploma holders and degree holders separately with different pay scales.
9. The Respondent Nos.3 to 6 are private Respondents who were initially appointed as Junior Engineers from Diploma category.
10. As per the previous Service Rules of Respondent No.1-PMC, prior to 2014, separate seniority lists of Engineers from degree and diploma holder

categories were maintained.

11. The State of Maharashtra on 25 May 2004 provided reservation in promotion by Government Resolution (“GR” for short) in light of Maharashtra State Public Services (Reservation for Schedule Castes, Schedule Tribes, De Notified Tribes) (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001.

12. The above Act was challenged before the Maharashtra Administrative Tribunal, which on such plea, was pleased to declare the said Reservation Act and GR dated 25 May 2004 as invalid.

13. Pursuant to the above, Writ Petition No.2797 of 2015 (*The State of Maharashtra & Anr vs Shri Vijay Ghogre & Ors.*) was preferred before this Court against the impugned judgment of Maharashtra Administrative Tribunal. The said Writ Petition resulted in a split verdict of this Court where one of the Judges upheld the validity of the said Reservation Act and the other set aside the same on being illegal and invalid.

14. Further to the above, the proceedings were referred to a third Judge who concurred with the view taken by His Lordship Justice A. A. Sayed, who struck down the GR dated 25 May 2004. The learned third Judge passed his order dated 25 July 2017 upholding the decision of Justice A. A. Sayed. Thereafter, the proceedings were referred back to the Bench which passed the initial judgment and order. By a majority order dated 4 August 2017 in Writ Petition No.2797 of 2015 and other Petitions (*The State of*

***Maharashtra & Anr vs Shri Vijay Ghogre & Ors.***), the GR dated 25 May 2004 was struck down, with consequential directions to the State Government to take necessary corrective steps.

**15.** The order and judgment of 4 August 2017 of this Court, was carried by way of Special Leave Petition (SLP) No.28306 of 2017 (***The State of Maharashtra & Anr vs Shri Vijay Ghogre & Ors.***) before the Supreme Court, where the proceedings are pending without any stay on the judgment of this Court dated 4 August 2017 (supra). In view thereof, the G.R. dated 25 May 2004 continued to be invalid and illegal.

**16.** In the meantime, the Respondent No.1-PMC came out with Pune Municipal Corporation Service Rules, 2014 (“**2014 Service Rules**” for short). Till 2014, there was a clear distinction for promotion to the post of Executive Engineer, on the basis of Degree and Diploma holders. However, as per the 2014 Service Rules, the eligibility criteria for the post of Executive Engineer was changed to Degree holders who were appointed through promotion (75%) and nomination (25%) to the cadre of Deputy Engineer, having a minimum of 3 years of experience at that post. For the promotional post of Superintending Engineer, the eligibility criteria specified was Degree in Bachelorette of Engineering (Civil) coupled with three years experience as Executive Engineer.

**17.** The Petitioner Nos.1 to 4 were duly promoted to the post of Executive Engineer (Civil) pursuant to the 2014 Service Rules on 11 March

2019, 3 March 2020, 23 October 2020 and 15 March 2016 respectively. The private Respondent Nos.3 to 6 were promoted to the post of Executive Engineer (Civil) on 3 March 2020, 21 December 2021, 21 December 2021 and 21 December 2021 respectively.

**18.** The General Administration Department of State of Maharashtra issued G.R. dated 1 August 2019. The said G.R. mainly stipulated that for the post on which the promotion is to be made, the final seniority list of the immediately preceding year in which the selection is held, shall be considered.

**19.** The above was followed by an another G.R. dated 7 May 2021. By the said GR the Respondent-State wanted to restore the seniority of those reserved category candidates who availed the promotion benefits on such basis, dating back to 25 May 2004. This was because the GR dated 25 May 2004 was struck down, as noted above and the proceedings in this regard are pending before the Supreme Court.

**20.** The State of Maharashtra issued letters dated 16 February 2019 and 21 February 2020 to the queries sought by Respondent No.1-PMC. These letters were issued to clarify the service seniority of Junior Engineers who had joined the service from the category of diploma holders and later, for the purpose of promotion to the post of Sub-Engineer, acquired a degree while in service. It was clarified that the Government had issued guidance to the effect that the period of service prior to acquiring degree qualification

i.e. the period from date of confirmation as Junior Engineer shall be considered as qualifying service seniority for promotion to the post of Sub Engineer. The same yardstick should apply to the post of Executive Engineer.

**21.** The Respondent No.2-DPC of PMC, issued a final seniority list dated 11 September 2024. According to the said published list, the Petitioner Nos.1 to 4 whose names are at Sr. Nos. 21, 24, 26 and 14 respectively, are stated to be senior vis-a-vis the private Respondent Nos.4 to 6, being at Sr. Nos. 28, 29 and 27 respectively.

**22.** Pursuant to the above, the DPC was convened and on 2 September 2025, the said DPC decided that the promotion to the post of Superintending Engineer is to be determined on the basis of seniority as on 25 May 2004. Consequently, the private Respondent Nos.3 to 6 were considered for promotion to the post of Superintending Engineer (Civil) as against the Petitioner Nos.1 to 4 on the ground of they being senior as per their date of joining / length of service.

**23.** The Respondent No.2-DPC issued a proposed draft selection list signed by the members of the DPC dated 2 September 2025. This, according to the Respondents, was issued to correct the mistakes which had crept in the final seniority list dated 11 September 2024, inasmuch as the seniority was not considered with effect from 25 May 2004 in the final seniority list.

**24.** The Petitioner Nos.1 to 4 having come to know that they are not promoted to the post of Superintending Engineer (Civil) as against the private Respondent Nos.3 to 6, having been superseded, preferred Writ Petition Nos.12046 and 12277 of 2025 before this Court.

**25.** A coordinate Bench of this Court on 24 September 2025 inter alia directed that the Respondent No.1-PMC shall not initiate the promotional process to the post on which the Petitioners are seeking a right to be considered without leave of this Court.

**26.** By an order dated 11 November 2025 in Writ Petition No.12046 of 2025 filed by the Petitioner No.4 herein and another, this Court directed the DPC to consider the representation of each of the Petitioners, deal with every issue raised and pass a reasoned order. It was clarified that if an adverse order was passed, the same would not be implemented for a period of two weeks thereafter.

**27.** The Respondent No.2-DPC, on 11 December 2025 passed the Impugned Order confirming its earlier decision dated 2 September 2025. The effect being that the Petitioner Nos.1 to 4 were denied promotion to the post of Superintending Engineer (Civil) as against the private Respondent Nos.3 to 6. The basis of such decision being that the promotion ought to be based on seniority to be reckoned as on 25 May 2004, considering the date of joining/initial entry into service. There are two emails on record dated 11 December 2025 sent by the Deputy Commissioner of PMC to the

Petitioners, attaching a file giving a tabular point wise reply to the representation of the Petitioner Nos.1 to 4.

**28.** In the above facts and circumstances, the Petitioner Nos.1 to 4 aggrieved by the Impugned Order and the promotional process of the Respondent No.1-PMC, have approached this Court by way of the present Petition seeking to implement the Final Seniority List dated 11 September 2024.

**29.** It is pertinent to mention that pursuant to the filing of the Petition and during its pendency, the Respondent No.2 has issued a draft seniority list as on 1 January 2026, dated 7 January 2026 even as per which the Petitioner Nos.1 to 4 are senior to the private Respondent Nos.4 to 6.

### **Rival contentions**

#### **Submissions of the Petitioners:-**

**30.** Mr. Anturkar, learned senior counsel for the Petitioners would at the outset submit that the Impugned Order is in clear violation of the earlier order of this Court dated 11 November 2025, passed in Writ Petition No.12046 of 2025 and Writ Petition No.12277 of 2025. So also, the entire promotion process initiated by the Respondent Nos.1 and 2 is legally flawed and cannot be given effect to.

**31.** Mr. Anturkar would contend that from a bare perusal of the Impugned Order, it is evident that the Respondent No.2-DPC has passed a two line order without considering the issues raised by the Petitioners. Nor

there are any reasons set out therein. Therefore, the Impugned Order being in violation to the earlier order of this Court dated 11 November 2025, ought to be quashed and set aside.

**32.** Mr. Anturkar would next submit that the final seniority list of Executive Engineer, i.e. feeder cadre for the post of Superintending Engineer indicates that the Petitioners are senior. Accordingly, they should have been considered for promotion to such post of Superintending Engineer, for which the feeder post is that of Executive Engineer.

**33.** Mr. Anturkar has submitted that the final seniority list of Executive Engineers was prepared by the Respondent Nos.1 and 2 on 11 September 2024. Such seniority list is not challenged and thus is final as on date. Further, any promotion to the post of Superintending Engineer after 11 September 2024, therefore, ought to have been made as per the final seniority list of Executive Engineer which is the feeder cadre for the post of Superintending Engineer.

**34.** Mr. Anturkar would submit that the Respondent Nos.1 and 2 prepared one unpublished, probable/proposed selection list on 2 September 2025 (page 276 of the Petition) and decided to make promotions to the post of Superintending Engineer as per the said unpublished probable/proposed selection list. Such list was never published nor objections were invited in respect thereof.

**35.** Mr. Anturkar would submit that the above list was prepared on the

basis of G.R. dated 7 May 2021 and as per clarification given by two letters from the State Government dated 16 February 2019 and 21 February 2020. So far as the G.R. dated 7 May 2021 is concerned, the Petitioners submit that the final seniority list dated 11 September 2024 was also prepared only after considering the G.R. dated 7 May 2021. The said G.R. pertains to promotions made from 25 May 2004 onwards from the backward class candidates which would apply until the order dated 4 August 2017 was passed by this Court (supra).

**36.** Mr. Anturkar would urge that a conjoint reading of the order dated 4 August 2017 passed by this Court read with the G.R. dated 7 May 2021 would make it clear that both of them would be applicable in respect of promotions given to persons belonging to the backward classes. Admittedly, the Petitioner Nos.1 to 3 belong to the open category and therefore they were not to be promoted from the reserved category. For such reason, the reliance of the Respondents on the G.R. dated 7 May 2021 is illegal and misplaced, as far as Petitioner Nos.1 to 3 are concerned who, admittedly belong to Open category.

**37.** Mr. Anturkar would submit that as far as Petitioner No.4 is concerned, after the order passed by this Court on 4 August 2017 (supra) the final seniority list was prepared on 11 September 2024. At the time of preparation of the said list, the G.R. dated 7 May 2021 was duly considered. Consequently, the Petitioner No.4 was shown as senior to Respondent Nos.3

to 6.

**38.** Mr. Anturkar would submit that the reliance placed by the Respondents on the Government letters dated 16 February 2019 and 21 February 2021, is completely misconstrued. In this context, he has placed reliance on a judgment of the Supreme Court in ***Shiba Shankar Mohapatra & Ors. Vs. State of Orissa***<sup>1</sup>. The Supreme Court has observed that the letters issued by the Government departments being merely in the nature of opinion of the department, cannot be conferred with the status of executive instruction.

**39.** Mr. Anturkar would contend that the applicable service rules in the given case would be 2014 Service Rules. He would more specifically rely on clause 4 of the said Rules along with G.R. dated 1 August 2019 in clause 5.2.1. which clearly stipulates that for the purposes of promotion, the seniority of the feeder cadre is to be considered. The final seniority list of the earlier year is also required to be taken into consideration. In the present case, the feeder cadre for the promotional post of Superintending Engineer is that of Executive Engineer and relevant date for the seniority of the earlier year is 1 January 2024. Hence, in light of G.R. dated 1 August 2019 read with the 2014 Service Rules, the reliance placed by the Respondents on their letters issued by the Government of Maharashtra dated 16 February 2019 and 21 February 2020, is misconstrued and

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1. (2010) 12 SCC 471.

unwarranted.

**40.** According to Mr. Anturkar, the Petitioners are degree holders and their appointments were made from the degree stream. Separate seniority list was maintained in respect of degree and diploma holders until the year 2014. It is in the year 2014 that the Service Rules of 2014 came into force. In view thereof, the appointment of the Petitioners as Junior Engineers and that of private Respondent is not equivalent. This is because when the Petitioners were initially appointed in the post of Junior Engineer, being degree qualified, they were given the time and pay scale of the next post i.e. Sub Divisional Engineer, since 1996. They were always treated as senior to the private Respondents from their appointment dates.

**41.** In fact, the Petitioners would urge that a bare perusal of the unpublished/proposed select list dated 2 September 2025 relied on by the Respondents would as it stood clearly indicates that the Petitioners were consistently senior and they were given promotion to the post of Sub-Engineer, Deputy Engineer and Executive Engineer, earlier than the private Respondents.

**42.** Mr. Anturkar would contend that once the seniority list has been fixed and remains in existence for a period of three to four years it is not open to the Respondents to challenge the same. He would rely on the Supreme Court's decision in *Shiba Shankar Mohapatra (supra)*. He would urge that admittedly, in the present case the seniority of the Petitioners was

in existence for more than 20 years, which cannot be disturbed under the guise of G.R. dated 7 May 2021. Such final seniority list cannot be disturbed on a purported benevolent plea of the Respondents that they wanted to correct their mistake and hence the final seniority list of 11 September 2024 ought not to be implemented.

**43.** Mr. Anturkar would be at pains to submit that even going by the Respondents' proposed select list dated 2 September 2025, it would be clear that the Petitioners are senior to the private Respondents even when one considers their promotion as Sub Engineer, Deputy Engineer and Executive Engineer respectively. All the Petitioners are appointed on their posts as holders of bachelor of engineering degree, which, the private Respondents obtained much after the appointment of all the said Petitioners.

**44.** It is Mr. Anturkar's submission that Respondents have failed to show any provision of law requiring that the date of initial appointment is to be considered in the given facts and circumstances. On the contrary, the Petitioners have placed specific reliance on the G.R. dated 1 August 2019 and the 2014 Service Rules. A conjoint reading of these make it clear that the Respondent No.1-PMC ought to have considered the seniority in the feeder cadre i.e. Executive Engineer as against the date of initial appointment of Junior Engineer, for the promotional post of Superintending Engineer.

**45.** Mr. Anturkar has urged that a desperate attempt was made by

Respondent No.1-PMC in placing reliance on the response to the Petitioners' representation, which was circulated to the Petitioners vide emails dated 11 December 2025, as if the same form a part of the Impugned Order. To the contrary, the Petitioners have specifically averred in the Petition that the Impugned Order was sent separately, followed by a separate mail sent to the Petitioners. This document was signed only by the Deputy Commissioner, General Administration Department, PMC and the Administrative Officer of the Establishment Department. It was not signed by all the members of the DPC, making it evident that the said document was a separate document and not a part of the Impugned Order. It is contended that the Deputy Commissioner Administration of PMC namely Vijay Kumar Thorat was a part of the DPC and he himself represented the Respondent No.1-PMC against Petitioner Nos.1 to 4. In view thereof, the said member who signed the Impugned Order cannot be a judge of his own cause and on such ground also the Impugned Order is unsustainable.

**46.** Mr. Anturkar, in light of the submissions advanced would strenuously urge that the Petitioners be considered for promotion to the post of Superintending Engineer as per the final seniority list dated 11 September 2024. Therefore, the entire promotion process held by the DPC, in accordance with the proposed select list dated 2 September 2025, be quashed and set aside. Accordingly, he would urge that the Petition be allowed.

**Submissions on behalf of the Respondent Nos.1 and 2:-**

47. Mr. Abhijit Kulkarni, learned counsel for the Respondent Nos.1 and 2-PMC has vehemently opposed the Petition and refuted the arguments advanced on behalf of the Petitioners. He has drawn the Court's attention to the Affidavit-In-Reply dated 12 January 2026 filed by one Vijaykumar Thorat, Deputy Commissioner, General Administration Department, in support of his submissions.

48. Mr. Kulkarni contends that the proceedings of hearing dated 13 November 2025 were noted by the Respondent No.2-DPC with assistance of Administrative Officer and Establishment Officer of Respondent No.1- PMC. The Respondent No.2-DPC recorded its finding in a tabular form which includes the points raised by the candidates and the findings of DPC thereof. The Impugned Order also includes the noting in the table annexed by the Petitioners (at Page 266 of Writ Petition). Both these documents were sent by the computer clerk of Establishment Department of Respondent No.1-PMC to all Petitioners by email on 11 December 2025 at 12:57 PM. However, when it was realised that the final typed order was yet to be signed by Vitthal Chavan, the Chief auditor of Respondent No.1-PMC who was not available on account of official work before 12:57 PM, the same order was sent after obtaining his signature at 6:16 PM on the same day.

49. According to Mr. Kulkarni, the emails addressed to the Petitioners

would indicate that two pdf files were attached to the email i.e. (i) **Yadav and others Sunavanifinal.pdf** and (ii) **Sunavani exe to SE final.pdf**. Second email which was sent to the Petitioners at 6:16 PM was signed by all DPC members. Thus, the contentions of the Petitioners that the Impugned Order is in violation of the earlier orders passed by this Court is incorrect and misplaced.

50. Mr. Kulkarni would submit that the contentions raised by the Petitioners to the effect that promotion to be made as per seniority list dated 11 September 2024 has been duly addressed by the Respondent Nos.1 and 2, more particularly, in paragraph 14 and 15 of the Affidavit-in-Reply filed on behalf of the Respondent Nos.1 and 2. Further, Mr. Kulkarni would contend that the private Respondents were appointed/joined service much prior to the Petitioners as is clear from their date of initial appointment/joining.

51. The Respondent Nos.1 and 2 in fact have considered that there has been a mistake which has occurred in the past in granting promotion on the basis of acquisition of promotion of bachelor of engineering degree, irrespective of work experience. This has been subsequently rectified by the Respondent No. 1-PMC after getting guidance from the state government. In fact, in all departments of the Respondent No.1-PMC, when the 2014 Service Rules were implemented, the seniority lists have undergone the change. This is with a view to rectify the error that has taken place in the

promotion process initiated by the Respondent Nos.1 and 2, which, if not done, would perpetuate the illegality in the seniority as Mr. Kulkarni would strenuously urge.

**52.** Mr. Kulkarni, referring to paragraph 16 of the Affidavit-In-Reply of the Respondent Nos.1 and 2, would contend that without disturbing the past benefits given on account of incorrect seniority list to the Petitioners as well as alike, the DPC has recommended the names of Respondent Nos. 3 to 6 for promotion to the post of Superintending Engineer on the basis of their actual date of appointment/seniority and eligibility. Thus, it is an admitted fact that on account of error on the part of Respondent No.1-PMC, the Petitioners were granted promotions.

**53.** He would then refer to the law laid down by the Supreme Court in case of *Indian Council of Agricultural Research and Anr v/s TK Surya Narayan and others*<sup>2</sup> in paragraph 8 of the said judgment which, according to the Respondents, applies to the given facts in its totality. The Supreme Court in the said decision held that an employee cannot be entitled to take accelerated promotions on the basis of educational qualification consequent upon the initial fitment in a particular category. Further, by introduction of service rules, appropriate remedial measures may be taken in this regard.

**54.** Mr. Kulkarni, then submits that the decision referred to by the Petitioners through Mr. Anturkar is distinguishable on facts. The facts in

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2. (1997) 6 SCC 766

***Shiba Shankar Mohapatra & Ors.*** (supra) are distinct from the given facts. Paragraph 3 of the said judgement clearly states that the eligibility for promotion of SIs (g) and SIs (st) were different for both the wings. That is not the case in the present Petition. Admittedly, as stated in the letters dated 16 February 2019 and 21 February 2020, annexed to the Affidavit-In-Reply filed on behalf of Respondent Nos.1 and 2 (at pages 327 to 330 of the Writ Petition), the Respondent No.1- PMC has sought guidance from the Urban Development Department being the parent authority of all Municipal Corporations of the State. Mr. Kulkarni would urge that such course is permissible as also observed by the Supreme Court in the said judgment.

**55.** According to Mr Kulkarni, in the present facts, admittedly, the 2014 Service Rules are in force and the same would prevail over any other Government Resolution or Circular. Rule 15 of the 2014 Service Rules clearly provides that in the event of any doubt regarding the interpretation of any provisions in these rules, the matter shall be referred to the government and the decision of the government in such case shall be final. Mr. Kulkarni would accordingly contend that the Respondent No.1-PMC could not be faulted, when it sought to take advice from the State as is evident from the letters dated 16 February 2019 and 21 February 2020 annexed to the Affidavit-In-Reply filed on behalf of Respondent Nos.1 and 2 (*Supra*).

**56.** Mr. Kulkarni submits that the reliance placed by the Respondents on

the GR dated 1 August 2019 is for the purpose of dealing with the objection of the Petitioners regarding the constitution of DPC, more particularly on the ground that one of the members of the said DPC, represented the backward classes. Even otherwise, it is not a disputed fact that in normal circumstances, the seniority list of immediate subordinate post is relevant for the purpose of promotions.

57. Mr. Kulkarni further submits that we need not go to the GR dated 1 August 2019, because the 2014 Service Rules also provides clarity on this. Therefore, seniority and eligibility are common factors in the GR dated 1 August 2019 and the 2014 Service Rules. However, according to Mr. Kulkarni, the 2014 Service Rules will prevail over the GR dated 1 August 2019, as per the settled position of law reiterated by the Supreme Court in the case of **Ashok Ram Parhad & others. v/s State of Maharashtra and others**<sup>3</sup>. Thus, in view of rule 15 of the 2014 Service Rules there is nothing wrong, much less illegal in so far as the guidance sought by the Respondent No.1-PMC from the government was concerned.

58. Mr. Kulkarni would further submit that in terms of the letters dated 16 February 2019 and 21 February 2020 (*Supra*), the Respondent No.1-PMC has acted upon the guidance provided by the State, by preparing the draft selection list, considering the original date of joining and the eligibility of all candidates at the relevant time when they were granted promotions.

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3. Civil Appeal No. 822 of 2023, decided on 15 March 2023.

This eligibility was divided into parts. First, is the educational qualification and the second is work experience. The candidates who fulfilled such criteria were considered for promotion based on their original date of appointment/joining. While doing so, the PMC has cautiously not disturbed the past promotions given to the Petitioners. This is a balance sought to be struck by the Respondent No.1-PMC by not causing any hardship to anyone. Following the settled principle of law, the PMC is justified in correcting its past mistakes while applying the same prospectively, by preparing a common seniority list.

**59.** Mr. Kulkarni has further contended that the instructions addressed in the letter dated 16 February 2019 are received after the approval from the Chief Minister, who was having the portfolio of the urban development department at the relevant time. In this context, he would refer to the judgment of the Supreme Court in **Haryana State Warehousing Corporation v/s. Jagat Ram & Anr<sup>4</sup>** which has been duly considered by the Chief Minister. In the said decision, the Supreme Court has clearly held that the eligible candidates possessing the minimum necessary merit in the feeder post is first ascertained. Thereafter, the promotions are strictly made in accordance with seniority from among those who possess the minimum necessary merit. This is recognized and accepted as complying with the principle of seniority-cum-merit.

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4. SLP (Civil) No. 2659 of 2011, decided on 23 February 2011.

60. Mr. Kulkarni would submit that though not binding a useful reference can be made to the judgment of the Punjab and Haryana High Court in the case of *Vijay Kumar Vs. Haryana State Electricity Board & Ors.*<sup>5</sup> where the facts were identical. It is held in paragraph 12 of the said judgment that it is settled law that authorities have power to correct bonafide mistake in the seniority list. An employee does not have a vested right to a seniority position that was granted due to a mistake and authorities are empowered to rectify such error.

61. The Respondents through Mr. Kulkarni would reiterate that the core issue involved in the present case is therefore, as to whether without causing hardship and disturbing previous promotions given to the Petitioners, the Respondent No.1-PMC can correctly rectify its mistake. According to him, this can be done, so far as it does not cause injustice to Petitioners as their previous enjoyment of post is not disturbed. Even today, their position as Executive Engineer will not be disturbed. Therefore, it cannot be said that the Petitioners would suffer grave hardship on account of selection of the private Respondents who are admittedly senior in service to the Petitioners.

62. Mr. Kulkarni would then submit that identical facts had come for consideration before a three Judge Bench of the Supreme Court in the case of *T. Valsan and Others v/s. K. Kanagaraj & Others*<sup>6</sup>. The Supreme Court in

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5. RSA-3431-2001, decided on 28 August 2025.

6. (2023) 7 SCC 614

the said decision held that the date of acquisition of higher education cannot be the criteria for giving seniority to those, who acquired the same early, at the cost of those who are having minimum qualification and who are seniors in service, which would apply in the given case.

**63.** Mr. Kulkarni would next submit that in the absence of any prohibition on correcting such mistake, it is inherent power of the Respondent No.1-PMC to prepare a correct seniority list for the purpose of further promotions, which can certainly apply prospectively. The Petitioners according to Mr. Kulkarni could not show any such prohibitory provision. Had the Respondent No.1-PMC disturbed their previous promotions, the judgment of the Supreme Court in *Shiba Shankar Mohapatra & Ors.* (supra) would have been applicable for their case to say that hardship is caused to the Petitioners. However, even considering the fact that the scope of judicial review under Article 226 of the Constitution which can never apply in a negative manner, the Petitioners cannot insist that merely because the Corporation has committed error in the past, the same shall be perpetuated in the future. This cannot be accepted so far as it does not affect the previous promotions and disturb the position of the Petitioners on the post of the Executive Engineer.

**64.** It is next contended by Mr. Kulkarni that as regards the participation of Vijaykumar Thorat, it is submitted that the Respondent No. 1-PMC by their Affidavit-In-Reply has merely placed on record that it has followed the

due process of law. Mr. Thorat has not filed the affidavit for his personal reason and has done so in the capacity as the head of Administrative Department of the Respondent No.1- PMC. Mr. Kulkarni would contend that the Deputy Municipal Commissioner, Administration was also a member of the said DPC. This fact was known to the Petitioners. Under delegation of powers under Section 69 of the MMC Act, 1949, the Municipal Commissioner has delegated powers to file affidavits in any case to the respective head of the Department. When one person is wearing different hats, that does not mean that he has a personal interest in the case. All the contentions of the Petitioners in that regard are without substance and merit when the Petitioners are not alleging any malafide either against the Municipal Corporation or against Mr. Thorat.

**65.** Mr. Kulkarni would reiterate that the provisional seniority list published on 7 January 2026 is also pending consideration of objections. Certainly, after considering such objections, the PMC will publish a fresh seniority list on consideration of all objections, aspects, legal provisions, guidelines issued by the State Government from time to time. The selection list dated 2 September 2025 (supra) was prepared by the DPC after considering the facts before it. Thus, it cannot be said that merely because the proposed provisional seniority list dated 7 January 2026 and the provisional select list prepared by the DPC on 2 September 2025 are different, the latter is faulty.

**66.** Mr. Kulkarni has urged that as regards the contentions raised in respect of Petitioner No.4 namely Mr. Ajay Wayse is concerned, admittedly the said Mr. Wayse has received all promotions on the basis of Government Resolution dated 25 May 2004 regarding promotions to candidates belonging to backward class. He is completely covered by the G.R. dated 7 May 2021. As per the directions of the Division Bench of the High Court in Writ Petition No. 2797 of 2015, his promotions will have to be ignored and his status as on 25 May 2004 will have to be considered. Mr Kulkarni submits that such position is not denied by the said Petitioner. Therefore, inclusion of his name in the seniority list of 11 September 2024 does not change the fact that he has received all promotions under the reservation quota.

**67.** In light of all the above submission Mr. Kulkarni would urge that the Petition is devoid of merit and ought to be dismissed.

**Submissions on behalf of the private Respondent Nos.3 to 6:-**

**68.** Mr. Surel Shah, learned senior counsel for the said Respondents has toed the stand/position taken by the Respondent Nos.1 and 2. The said Respondents are primarily aggrieved by the final seniority list of 11 September 2024, on the basis of which the Petitioners are stated to be senior to the said Respondents.

**69.** Mr. Shah would at the outset submit that in the given case, it is the date of joining/entry into service that ought to be considered for promotion

to the post of Executive Engineer and consequent to that of Superintending Engineer. According to him the date of acquisition of qualification is not the sole criteria, which should be accompanied by the length of service in the employment of Respondent No.1. In that regard he has placed due reliance on the decision of the DPC of 2 September 2025 which is duly reflected in the Impugned Order. He has reiterated the submissions advanced on behalf of the Respondent Nos.1 and 2 in this regard.

70. Mr. Shah would submit that it is after consideration of the point wise reply of the Respondent No.2-DPC to the Petitioners' representation that the Impugned Order came to be passed. Thus, there is no fault, much less error in the said order, which deserves to be upheld.

71. Mr. Shah would contend that as the Respondent Nos.1 and 2 have admitted their mistake which has crept in the final seniority list dated 11 September 2024. An opportunity ought to be given to the Respondent Nos.1 and 2 to correct the same. This Court under Article 226 of the Constitution can pass appropriate directions/orders to rectify such mistake, to ensure that the same is not perpetrated any further.

#### **Analysis and Conclusion:-**

72. We propose to deal with the disputes/controversy surrounding the petition along with the issues raised, in two parts :-

A) The challenge by the Petitioners, to the promotion process in the position of Superintending Engineer, of Respondent No.1-PMC

initiated by the Respondents, by placing reliance on the final seniority list dated 11 September 2024, which according to the Respondents, for the reasons narrated above, cannot be implemented.

B) Secondly, whether the Petitioners have rightly assailed the Impugned Order mainly on the ground that it is a non-speaking order, bereft of reasons and passed in contravention of an earlier order of this Court dated 11 November 2025.

In the above context, we may first advert to Appendix – 2, to the 2014 Service Rules. The Serial No.135 governing the post of Superintending Engineer which is centrifugal to the present case, reads thus :-

Sr. No.	Cadre	Designation	Method of Appointment & Percentage 1. Nomination 2. Deputation 3. Promotion	Eligibility for Appointment & Method of Appointment
135.	Engineering Service Grade 1	Superintending Engineer	Deputation	Appointment on deputation from among the officers of the State Government who have served for 05 years in the post of Superintending Engineer (Civil).
			Promotion 100%	A degree of B.E. (Civil) or an equivalent degree in the engineering branch from a recognized university. Experience: Must have 03 years of work

				<b>experience in the post of Executive Engineer (Civil).</b>  <i>(emphasis supplied)</i>
			Deputation	On deputation from among the officers of the State Government who have served for 03 years in the post of Superintending Engineer.

The above makes it clear that for the position of Superintending Engineer the statutory rules contemplate only a degree of B.E (Civil) or its equivalent, with an experience of three years in the feeder post of Executive Engineer (Civil). Serial 138 of the said Appendix – 2 provides for Executive Engineer (Civil), the feeder post for Superintending Engineer, which reads thus :-

Sr. No.	Cadre	Designation	Method of Appointment & Percentage 1. Nomination 2. Deputation 3. Promotion	Eligibility and Method of Appointment
138.	Engineering Service Class - 1	Executive Engineer (Civil)	Promotion 100%	<b>Based on seniority and merit in the establishment of Pune Municipal Corporation, from among the Deputy Engineers holding a degree in Civil Engineering from a recognized university, who were appointed through promotion (75%) and nomination (25%) to the</b>

				cadre of Deputy Engineer (Civil), a minimum of 03 years of experience on that post is required.  <i>(emphasis supplied)</i>
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A perusal of the above would indicate that it provides for a qualification in terms of holding a degree in Civil Engineering for those who were appointed through promotion (75%) and nomination (25%) to the cadre of Deputy Engineer along with minimum three years of experience in the post of Deputy Engineer to acquire the designation/position of Executive Engineer. Such requirement is not for the post of Superintending Engineer.

73. We would now advert to the 2014 Service Rules. The relevant sub Rule reads as under:-

*“4. Appointment by promotion. - Any appointment to be made by promotion shall be made from amongst the eligible employees on the principle of seniority-cum-merit.”*

The above makes it clear and evident that the principle to be applied as per the said Rule is that of ‘Seniority-cum-Merit’. This would entail that the Respondent Nos.1 and 2 ought to ensure that the candidates should first fulfill the minimum criteria/qualification in terms of merit in the feeder post of Executive Engineer, coupled with three years of experience as Executive Engineer. Having crossed such threshold of merit, comes the requirement of seniority.

74. We may at this juncture advert to the G.R. dated 1 August 2019 issued by Government of Maharashtra, General Administration Department.

The relevant paragraph of the said G.R. (5.2.1) reads as under:-

*“5.2.1 Service Seniority List*

*5.2.1 The Final seniority list for the year immediately preceding the selection list for the lower category posts from which promotion is to be granted to the higher category posts (viz if the selection list is for the year 2017-18, the final seniority list as on date 1<sup>st</sup> January 2017) should be drawn.”*

A perusal of the above para would entail that if the Selection list is for a particular year, for instance 2017-2018, the final seniority list as on 1 January 2017 should be drawn. Therefore, in the given case there is a final seniority list dated 11 September 2024, where the seniority would be with effect from 1 January 2024. This under the above para of the said G.R should be read with reference to the proposed select list for the year 2024-2025. In view thereof, it ought not to date back to 25 May 2004 as indicated in the proposed select list dated 2 September 2025, which, admittedly, is not finalized and has therefore not seen the light of the day.

75. In the above context, we have also noted the submission of Mr. Anturkar that even going by the proposed select list dated 2 September 2025, if one considers the seniority in the feeder cadre as the basis for promotion to the respective promotional post, including that of Superintending Engineer, the Petitioners are senior to the private

Respondents. However, this is a proposed/draft select list which remained to be implemented by the Respondent Nos.1 and 2, as no objections were invited to such draft list, for its finalization, as the law would mandate. For the reasons set out hereinafter, such proposed select list that proceeds on the basis of date of initial appointment/joining to reckon the length of service for promotion, does not stand legal scrutiny. For such reasons, we are not, at this stage, delving into the said submission of Mr. Anturkar in regard to the proposed select list.

**76.** The Respondents, despite specific query from the Court, have not been able to point out any specific Rule providing that date of joining service should be the basis for seniority qua promotion to the post of Superintending Engineer. It is thus apparent that paragraph 5.2.1 (supra) of the said 2019 G.R. in the form of Executive Instructions under Article 162 of the Constitution is compatible and complements the 2014 Service Rules, more particularly paragraph 4, as noted above. This is not a situation of “unoccupied interstices” where any gap in the Rules and/or instructions is to be filled. The Supreme Court had the occasion to interpret this principle in **Institute of Chartered Accountants of India v/s. L. K. Ratna and Others<sup>7</sup>** and **S. L. Kapoor vs Jagmohan and Others<sup>8</sup>**.

**77.** We may now test the contention of the Respondents through Mr. Kulkarni on the reliance placed on Rule 15 of the 2014 Service Rules. The

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7. (1986) 4 SCC 537

8. (1980) 4 SCC 379

said Rule read thus :-

*“15. If any doubt arises regarding the interpretation of any provision in these rules, the matter shall be referred to the Government and the decision of the Government in that regard shall be final.”*

A perusal of the above would indicate that it cannot be read and construed in isolation without reference to the statutory framework in the form of Rules, Regulations, and or Executive Instructions in the form of Government Resolutions. The interpretation of the Respondents in this context, to the effect that a matter when referred to the Government its decision will be final, *dehors* such statutory Rules, cannot be countenanced. The reference, simpliciter, of the first and second Respondent to Article 309 of the Constitution in vacuum, without reference to a Rule/GR which supports their stand on date of joining/initial entry into service for promotion, is not what the law mandates.

78. It would be apposite to refer to the decision of the Supreme Court in *Ved Prakash Vs. State of Haryana*<sup>9</sup>. The Supreme Court was confronted with the interpretation of Rule 9 of the Punjab Forest Subordinate (Executive Section) Rules where the criteria for promotion was ‘Seniority-cum-Merit’. The Supreme Court has observed that when promotion is based on the yardstick of ‘Seniority-cum-Merit’, it is difficult to apprehend how merit will be ignored from consideration. The requirement of merit being satisfied, then the criteria for seniority ought to be determined and in that event,

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9. (2002)10 SCC 359

promotion is bound to be given on the basis of seniority in the feeder cadre to the promotional post.

**79.** Similar to the above is the decision of the Supreme Court in the case of *Union of India Vs. C. Jayaprakasan*<sup>10</sup>. The Supreme Court observed that in the absence of any specific Rule holding that continuous length of service would be the basis for seniority in a particular grade, entry into the immediately lower grade/feeder post, would be the normal rule for promotion.

**80.** Apropos the above, in our view, emphasis of the Respondents on the date of joining as the criteria for promotion to the post of Superintending Engineer is not in sync with the relevant statutory 2014 Service Rules. These partake constitutional character under Article 309 of the Constitution of India. The G.R. dated 1 August 2019 ought to be read in context and harmoniously with the 2014 Service Rules. Therefore, given the unambiguous language in the said Rule and G.R. as set out above, we are not persuaded to accept the stand of the Respondents that the initial date of joining the service, ought to be the relevant criteria for reckoning promotion to the post of Superintending Engineer, in the given factual complexion.

**81.** In the above context, we may refer to the letters dated 16 February 2019 and 21 February 2020 issued by the Government of Maharashtra,

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10. (2010) 15 SCC 752

Urban Development Department (*Supra*) which is heavily relied on by the Respondents in support of their stand. On perusal of the latter correspondence, it is evident that there is clear reference to '*taking any further action on the basis of Government Resolution/Rules*'. This goes to show that the Executive is conscious of the fact that in matters of promotion based on the principle of seniority-cum-merit, the applicable Statutory Rules along with the Executive Instructions, ought to be duly considered. This ought not to be reduced to a mere formality. For such reasons, we are unable to accept the submission of the Respondent Nos.1 and 2, premised on the said letters which are projected as the force behind the decision dated 2 September 2025 of the Respondent No.2-DPC, as reflected in the Impugned Order.

**82.** The Respondent Nos.1 and 2 through Mr. Kulkarni have placed much reliance on the G.R. dated 7 May 2021. In this context the relevant portion of the said G.R. is extracted below:-

*"3. Those officers/employees belongs to backward class category and whose names have been mentioned at the top in the Seniority list after their availing the benefit of reservation in promotion as per the provisions prescribed in the Government Resolution, dated 25.05.2004, referred to hereinabove at Sr. No. 1 in read, all such Officers/Employees -*

*(A) if they have joined the Government Service on or before the date 25.05.2004, then they shall become eligible for*

*further promotion as per their seniority as on the date 25.05.2004.*

*B) If they have joined the Government service after the date 25.05.2004, then they shall become eligible for further promotion as per their original seniority as on the date of their joining the service.”*

A bare perusal of the above makes it clear that the said G.R. only applies to those officers/employees who have moved up the ladder in service seniority, taking benefit of the reservation in promotion in terms of the G.R. dated 25 May 2004. In other words, the said G.R. as it stands, is not applicable to persons belonging to the open category.

83. Apropos the above, the interpretation of the Respondent Nos.1 and 2 on the said G.R. inasmuch as it is equally applicable to open category candidates seems to be misconstrued, misplaced and extraneous to the said G.R. As far as the averments in paragraphs 14 and 15 of the Affidavit-In-Reply filed by the Respondent Nos.1 and 2 is concerned, the stand taken by them is misconstrued. This is inasmuch as the G.R. of 7 May 2021 referred to therein, does not apply to Open category candidates as noted above viz. Petitioner Nos.1 to 3. Further, the letter dated 16 February 2019 is only an opinion of the officers of the executive and cannot partake the nature and/or character of an executive instruction as clearly held by the Supreme Court in the case of ***Shiba Shankar Mohapatra & Ors.*** (supra).

84. Mr. Kulkarni to buttress the case of the Respondents has drawn

support from a few decisions. He has first placed reliance on the decision of the Supreme Court in *Indian Council of Agricultural Research & Anr.* (supra). This was clearly a case of accelerated promotion completely different and distinct from the present factual situation. Moreover, in the present case, the 2014 Service Rules read with the G.R. of 1 August 2019 lend clarity in the given situation where the criteria of promotion to the post of Superintending Engineer is based on seniority-cum-merit. The decision next relied on by Mr. Kulkarni in *Haryana State Warehousing Corporation* (supra) also does not cut ice. There is no quarrel with the proposition that promotions are made strictly in accordance with seniority after possessing minimum necessary merit in the feeder post, in due compliance with the principle of seniority cum merit. Our reference to the decision of *Ved Prakash* (supra) in fact endorses such said legal position, which in fact is sought to be departed from, by the Respondent Nos.1 and 2.

85. We may now refer to the decision relied on by Mr. Kulkarni in *T. Valsan and K. Kanaraj & Ors.* (supra). A perusal of the said decision would reveal that the factual matrix of the given case was completely different. The Supreme Court in its analysis followed by its conclusion placed much reliance on another decision in *C. Chakkarvarthy Vs. M. Satyavathy*<sup>11</sup> where the Government relied on DOPT guidelines in the context of promotion to the post of Assistant Engineer where service was based on merit and merit

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11. 2015 16 SCC 652

alone without taking seniority as an input for determining such merit. Whereas in the present case the promotion is based on seniority-cum-merit as contemplated under the 2014 Service Rules and the G.R. dated 1 August 2019, both of which are binding on the Respondent Nos.1 and 2. Needless to mention that seniority-cum-merit and merit alone are different concepts and principles in service jurisprudence having distinct legal connotation. We may further refer to the decision pressed by Mr. Kulkarni of the Punjab and Haryana High Court in *Vijay Kumar Vs. Haryana State Electricity Board* (supra). An employee, in a particular case, may not have vested right to seniority which was granted due to a mistake. However, that fact situation is in no manner whatsoever comparable to the given factual complexion, in light of the aforesaid discussion.

**86.** We may now advert to the contention of the Respondent Nos.1 and 2 through Mr. Kulkarni that the Impugned Order is passed within the confines of law and in conformity with the earlier order of this Court dated 11 November 2025. Having heard and considered the submissions advanced by the parties in this regard, we may refer to the relevant extract of our earlier order which reads thus:-

*“4. To balance the equities, we deem it appropriate to permit the Petitioners in the second Petition to file a representation raising grounds with regard to the select list, to the chairman of the DPC, by tomorrow i.e. 12<sup>th</sup> November 2025 at 2:00 p.m. As like the Petitioner in the first petition namely, Ajay Dattatraya*

*Wayase, the DPC would consider the representations of each of these Petitioners and deal with every issue raised. A reasoned order should be passed. If an adverse order is passed, the same would not be implemented for two weeks."*

In the above context, we may juxtapose the above directions in the said order of this Court to the Impugned Order. The Impugned Order as it stands nowhere refers to the response to the Petitioners' representation given in tabular form. The record reveals that the same was shared with the Petitioners, by the Respondent No.1 only vide separate emails dated 11 December 2025.

87. We are not persuaded to accept the contention of Mr. Kulkarni that the response to the representation of the Petitioners, is contained in the Impugned Order. The same is *res ipsa loquitur*. The High Court in its order dated 11 November 2025 has specifically directed that a reasoned order should be passed after considering the representation of each Petitioner and dealing with every issue raised. This is not borne out from a bare perusal of the Impugned Order, when the response to the representation of the Petitioners, in tabular form, was sent by separate emails after passing of the Impugned Order. Detailing reasons in the Impugned Order itself was the mandate to be followed by the Respondent No.2-DPC. In this context it would be apposite to refer to the decision of the Supreme Court in *Sant Lal Gupta & Ors. Vs. Modern Cooperative Group Housing Society Ltd. & Ors*<sup>12</sup>,

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12. (2010) 13 SCC 336

where the Supreme Court held that reason is the heartbeat of every conclusion, without the same it becomes lifeless. In such backdrop, the Respondent No.1-PMC ought to have been circumspect in its actions, more particularly as 'State', under the aegis of Article 12 of our Constitution.

**88.** We find force in the submission of Mr. Anturkar to the effect that the response to the Petitioners' representation in tabular format is signed by two persons, only one of whom happens to also be a signatory to the Impugned Order. This is pertinent, inasmuch as if such response was a part of the Impugned Order, it would not have been separately signed by two persons namely the Administrative Officer and the Deputy Commissioner of the Respondent No. 1-PMC. This is more particularly, when only the latter i.e. the Deputy Commissioner was a signatory to the Impugned Order. The Petitioners in the present facts have not attributed *malafides* to any member of the DPC. In fact, the litmus test for such Impugned Order is due compliance with the principles of natural justice in letter and spirit. This would entail inclusion and incorporation of detailed reasons in the Impugned Order itself, as mandated by this Court's earlier order dated 11 November 2025, absence of which is conspicuous. At this juncture, we find it apposite to refer to the decision of the Supreme Court in ***Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner, New Delhi & Ors.***<sup>13</sup> which is considered to be the *locus classicus* on the proposition that when a

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13 (1978) 1 SCC 405

statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.

89. We may now refer to the reliance placed by Mr. Anturkar on the decision of *Shiba Shankar Mohapatra* (supra), more particularly in paragraphs 17, 18, 29 and 30 thereof. Here the Supreme Court has held that letters issued by the Government departments being merely opinion of the departments cannot be conferred the status of executive instructions. It concludes by reiterating the settled legal proposition that once seniority has been fixed and remains in existence, for a reasonable period, it ought not to be disturbed. The ratio and the principles laid down in the said decision are clearly applicable in the given facts as the letters dated 16 February 2019 and 21 February 2020 referred by the Respondent Nos.1 and 2 cannot be elevated to that of executive instructions.

90. We see no reason much less justification to dislodge the final seniority list, not otherwise legally superseded or assailed by the Respondents, in the given factual complexion. The distinction sought to be made by Mr. Kulkarni on the said judgment that guidance of the Government is permissible is not disputed. However, we reiterate that such opinion of the executive manifesting itself in letters cannot be the gospel and/or the sole yardstick in such matters. In view thereof, the decision cited by Mr. Kulkarni in *Ashok Ram Parhad & Anr.* (supra) is also not apposite in

the given facts. Moreover, it cannot be disputed that the G.R. dated 1 August 2019 ought to be read in harmony and conformity with the 2014 Service Rules.

91. It is in the above context and backdrop that in our view, the final seniority list dated 11 September 2024 assumes importance particularly when the same is not superseded and/or challenged by the Respondents in the manner the law would require. It therefore settles the position for promotion to the post of Superintending Engineer. It is in the interest of administrative discipline and uniformity that such final seniority list ought to be implemented. We may at this juncture, gainfully refer to the decision of the Supreme Court in *V. Vincent Velankanni Vs. The Union of India & Ors*<sup>14</sup>. In this case, the Supreme Court observed thus:-

*“50. Thus, much water has flown under the bridge and retrospective application of the GO issued in 2015 would open floodgates of litigation and would disturb the seniority of many employees causing them grave prejudice and heartburn as it would disturb the crystallized rights regarding seniority, rank and promotion which would have accrued to them during the intervening period. To alter a seniority list after such a long period would be totally unjust to the multitudes of employees who could get caught in the labyrinth of uncertainty for no fault of theirs and may suffer loss of their seniority rights retrospectively”*

In addition to the above, we may also refer to the decisions of the Supreme Court in *Shiba Shankar Mohapatra (supra); B.S. Bajwa & Anr. vs*

14. 2024 SCC OnLine SC 2642

*State of Punjab & Ors<sup>15</sup>; K.R. Mudgal and Others vs R.P. Singh and Others<sup>16</sup>* and *Malcom Lawrence Cecil D'Souza vs Union of India & Ors<sup>17</sup>*, where the Supreme Court has in similar fact situation, declined to interfere with the settled position, qua seniority list.

92. We now advert to Mr. Kulkarni's thrust and emphasis on correcting the mistake in the final seniority list dated 11 September 2024 and not allowing it to perpetuate. This appears to be attractive at the first blush, but is untenable on deeper scrutiny. We say so as our attention is invited to the draft seniority list published recently as on 7 January 2026 by the Respondent No.1-PMC. A bare perusal of the same indicates that the Petitioners are clearly senior to Respondent Nos.4 to 6. It appears from the said list that Respondent No.3 and Petitioner No.2 were promoted to the feeder post of Executive Engineer on the same date i.e. 3 March 2020. Thus, when the Respondent Nos.1 and 2 intend to conduct the promotion process in accordance with the proposed select list dated 2 September 2025, which as discussed above is legally untenable, it is imperative for this Court to refrain from confirming the Impugned Order.

93. In our view, had the first and second Respondents been sure of their stand, more particularly, the mistake that they intended to correct, the length of service/seniority from the date of joining/entry into service would

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15. 1997 SCC OnLine SC 181

16. (1986) 4 SCC 531

17. (1976) 1 SCC 599

have been so reflected, at least, in the said draft seniority list of 7 January 2026. However, this is not so. We may thus observe that the Respondent Nos.1 and 2 by their conduct in the said promotion process have neither been consistent, much less uniform which deters us from accepting their stand on mistake in the given factual matrix. The contention of the Respondent Nos.1 and 2 that objections are invited to the draft seniority list of 7 January 2026, which would then be considered, takes their case no further.

**94.** As far as Petitioner No.4 i.e. Ajay Dattatraya Wayse is concerned, we may refer to the office circular dated 11 September 2024, issued by Respondent No.1-PMC. It is under this that the Final Seniority List is issued. This consciously refers to the G.R. dated 7 May 2021 (supra). Moreover, the said circular is neither superseded nor challenged by the Respondents. Thus, it further clarifies that the final seniority list of 11 September 2024 is published, subject to the final decision in SLP No. 28306 of 2017 (supra), pending in the Supreme Court. Accordingly, we deem it fit to subject his promotion to take effect in terms of the final seniority list dated 11 September 2024, to the final outcome in the pending proceedings before the Supreme Court in (SLP) No.28306 of 2017 (supra).

**95.** We have noted the contentions of Mr. Surel Shah for the private Respondents. In our view, it is a reiteration of the position taken by the first and second Respondents, which we have elaborately dealt with in the

paragraphs above. We are of the considered view that the date of joining/initial entry, overlooking the seniority position in the feeder cadre to the promotional post ought not to be the criteria for promotions, including to the post of Superintending Engineer. We are not persuaded by the submission of Mr. Shah, for the reasons noted above, that this is a case which warrants our interference under Article 226 of the Constitution by nullifying the final seniority list and consequently confirming the Impugned Order.

**96.** For all the foregoing reasons, we are inclined to allow the Petition by setting aside the Impugned Order 11 December 2025 and confirming the final seniority list dated 11 September 2024, with all consequences arising therefrom. As far as the draft proposed select list dated 2 September 2025 is concerned, the same shall not be given effect to and/or acted upon by the Respondent Nos.1 and 2. However, we clarify that the promotion of Petitioner No.4 as indicated above shall be subject to the outcome of the pending Supreme Court proceedings (supra).

**97.** Before parting, we may observe that in the given factual complexion, there are no compelling reasons advanced by the Respondents which warrant our interference. We see no reason, much less justification to disturb and/or dislodge the final seniority list, in exercise of our extraordinary jurisdiction under Article 226 of the Constitution. We are conscious of the admission of mistake by the Respondent Nos.1 and 2.

However, having concluded that the position taken by the first and second Respondents is not within the legal framework/parameters, we are equally mindful of the prejudice and heartburn that would inure to the Petitioners and such other persons. This is more particularly when their rights have been crystallized, vide the final seniority list. It would not be just or fair to have the Petitioners and/or similarly situated persons entangled in the labyrinth of uncertainty. This does not appeal to our conscience and such approach in our considered view, would not lead to substantive justice. In view thereof, we are persuaded to hold that in the given factual complexion, justice lies on the side of the Petitioners, warranting relief in their favour.

**98.** We therefore pass the following order:-

### **ORDER**

- a) The Impugned Order dated 11 December 2025 passed by Respondent No.2- DPC is quashed and set aside. Consequently, the proposed draft select list dated 2 September 2025, shall not be acted upon and/or given effect to by the first and second Respondents.
- b) The Respondent Nos.1 and 2 are directed to implement the Final Seniority List dated 11 September 2024, in any event not later than in two weeks from the date of uploading of this order, with all consequences arising therefrom. The promotion of Petitioner No.4 shall, however, be subject to the final outcome of the Supreme Court

decision in (SLP) No.28306 of 2017 (*The State of Maharashtra & Anr vs Shri Vijay Ghogre & Ors.*) (supra).

- c) The Petition is made Absolute in the above terms.
- d) No order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]