

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 2115 of 2026**

Dr. Prithvinath R. Bhagat

...Petitioner

**Vs.**

The State of Maharashtra

...Respondent

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Mr. Abhijeet Desai a/w Mohini Rehpade, Daksha Madhav, Karan Gajra, Vijay Singh and Deepesh Ramrakhiyani i/by Desai Legal LLP for the Petitioner.

Mr. S. H. Kankal, AGP for Respondent Nos.1 and 4-State.

Mr. Bhushan Joshi for Respondent Nos.2 and 3.

Ms. Janavi Patil, Legal Officer of Respondent Nos.2 and 3 is present.

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

**DATED : 23RD FEBRUARY, 2026**

**P.C.:-**

1. By this Writ Petition, the Petitioner is seeking a direction to Respondents to apply amended Rule 10(1) of the Maharashtra Civil Services (Pension) Rules, 1982 to the Petitioner's case and recognize that the Petitioner is entitled to the benefit of the extended retirement age of 60 years as prescribed therein. The other prayers include setting aside of impugned retirement notice dated 30 December 2025 issued by Respondent No.2- The Commissioner & Administrator Vasai Virar City Municipal Corporation directing retirement of Petitioner upon attaining 58 years of age on 28 February 2026. The urgency for circulating the present Writ

Petition and for keeping the matter on the production board is that by the impugned retirement notice dated 30 December 2025, the Petitioner is held to have retired on attaining 58 years of age with effect from 28 February 2026.

2. Learned counsel appearing for the Petitioner has referred to the fact that the amended Rule 10(1) of the Maharashtra Civil Services (Pension) Rules, 1982 which has extended the retirement age till the age of 60 years has fallen for consideration before this Court in several Writ Petitions. He has in this context referred to the order of the Division Bench of this Court dated 15 October 2024 passed in Writ Petition No.14354 of 2024 viz. Dr. Rajani Karhade and Ors. Vs. State of Maharashtra Through Public Health Department and Ors.

3. This Court had considered that similar issues are pending in other Writ Petitions and during pendency of original applications orders of interim relief had been passed. This Court had accordingly granted interim relief in terms of prayer clause (d) and (e) of the Writ Petition making it subject to the outcome of the Writ Petition. It was further made clear that in the event that the Writ Petition fails, the Respondents will be at liberty to pass appropriate orders with regard to recovery/adjustments of the amounts paid to the Petitioner for the services rendered under the interim orders. The very same Division Bench had passed a similar interim order in Writ Petition No.15093 of 2024-Dr. Satish Suryavanshi and Ors. Vs. The

State of Maharashtra, Through Public Helath Department and Ors; order dated 24 October 2024. By these interim orders the Petitioners were allowed to continue in service till they reach their respective age of superannuation of 60 years and subjecting it to the final outcome of the Petitions.

4. Learned counsel for the Petitioner has in particular relied upon the Division Bench order of this Court dated 23 June 2025 [Writ Petition (L) No.17745 of 2025] Gajanan T. Bhagat Vs. The State of Maharashtra and Ors. in context of his submission that considering that the Petitioner's service is with the Respondent-Municipal Corporation. This Court had taken a view that the Government Resolution/Notification dated 23 February 2022 (page 52 of the Petition) be made applicable to the Petitioner's service with the Municipal Corporation. Similar interim relief had been granted as in the above Writ Petitions.

5. Learned counsel for the Petitioner has sought for similar interim order as passed by this Court in the aforementioned Petitions.

6. Learned counsel appearing for Respondent Nos.2 and 3- Vasai Virar City Municipal Corporation has tendered an affidavit-in-reply on behalf of Respondent Nos.2 and 3 dated 20 February 2026 wherein the stand has been taken that in Rule 10(1) of the Maharashtra Civil Services (Pension) Rules, 1982 (as amended by the notification dated 23 February 2022) it has been specifically stated that, the above provision shall be in force till 31

May 2023. A further stand is taken that there are several Petitions which are pending before this Court, and some of them even admitted. Further that this Court in each and every order wherein the Petitioners in the pending Petitions were granted interim protection had made it clear that in case the Writ Petition fails, the Respondent would be at liberty to pass appropriate orders with regard to recovery/adjustment of the amounts paid to the Petitioner for the services rendered under such interim orders.

7. The Respondent Nos.2 and 3 in the said affidavit-in-reply has referred to an order of the Supreme Court dated 3 December 2021 passed in Special Leave to Appeal (C) No.18009 of 2021 wherein the Supreme Court has considered a case of the Respondent retiring from service. In that case an order had been passed by the High Court restraining the Appellant from retiring the Respondent-Original Petitioner until 63 years of age, if she continues to be efficient or till final disposal of the writ petition, whichever is earlier.

8. The Supreme Court has in this context noted that the relief granted by the High Court at the interim stage is a final relief which can be granted only in the main Writ Petition. Accordingly, it was held that the High Court ought not to have granted such a relief at the interim stage which can only be granted as final relief in the main Writ Petition. Further, if such interim relief was continued and the original Writ Petition was dismissed then there would be multiplicity of proceedings and complications and the question

with respect to recovery may arise. Accordingly, the Supreme Court had allowed the Appeal.

9. Learned counsel for Respondent Nos.2 and 3 has submitted that in view of the judgment of the Supreme Court in Petition for Special Leave to Appeal (C) No. 18009 of 2021 dated 3 December 2021 (supra) this Court may not grant final relief at interim stage. He has further submitted that although vide notification dated 23 February 2022 the Rule is amended, there is a bar which specifically states that the above provision shall be in force only till 31 May 2023. The said bar was the subject matter of challenge in other Petitions. Accordingly, it would be more appropriate to await the outcome of those Petitions prior to granting any interim relief in this matter, at this stage.

10. Having considered the submissions, the Division Bench of this Court has taken a consistent view that interim protection is required to be granted to the Petitioner, particularly in view of the Petitioner being superannuated at the age of 58 years and that the notification having extended the retirement age to 60 years. Adequate safeguards have been provided by this Court in the aforementioned orders which have been relied upon by the Petitioner wherein it was made clear that if the Petition fails, Respondents would be at liberty to pass appropriate orders with regard to the recovery/adjustment of the amounts paid to the Petitioner for the services rendered under the interim order. It was also made clear that interim reliefs

have been made subject to the outcome of the Writ Petition.

11. We find it appropriate in the given case to pass a similar order as passed by this Court in the Writ Petitions which have been adverted to above. The contention on behalf of Respondent Nos.1 and 2 that the above provision was in force till 31 May 2023 as per the said notification would also have been applicable in the other Writ Petitions that fell for consideration before this Court. There is a challenge to the said bar/cut off date which is being considered by this Court. Respondent Nos.2 and 3 have also in their said affidavit sought for the protection which has been granted by this Court in the other Writ Petitions viz in the event Writ Petition fails, the Respondents would be at liberty to pass appropriate orders with regard to recovery/adjustment of the amounts paid to the Petitioner for the services rendered under the interim order. We are inclined to grant such protection.

12. The order of the Supreme Court in *National Textile Corporation Limited Vs. Priyanka Pradeep Chavan*<sup>1</sup> was passed in the facts of that case and where the Court was not considering the amended Rule 10(1) of the Maharashtra Civil Services (Pension) Rules, 1982 under which statutory Rule the retirement age had been extended to the age of 60 years. In that case the relaxation of retirement age was by way of an order of the Court. The High Court had in that case restrained the Appellant-National Textile

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1 Order dated 3 December 2021 passed in Civil Appeal No..7393 of 2021.

Corporation Limited from retiring the Respondent-Original Petitioner till 63 years of age, if she continues to be efficient or till final disposal of the Petition, whichever is earlier. Accordingly, the Supreme Court held that the High Court ought not to have granted such a relief at the interim stage which, as such, would be the final relief which can be granted, at the most in the main Writ Petition. Thus, the case before Supreme Court is clearly distinguishable from this case as well as the other cases adverted to above where interim orders of protection have been granted.

**13.** Considering that the Petitioner will be superannuated from 28 February 2026, we consider it appropriate to grant ad-interim protection to the Petitioner.

**14.** The Petitioner's service shall accordingly stand protected till the Petitioner reaches the age of superannuation of 60 years, or until further orders ,whichever is earlier. It is further made clear that if the present Writ Petition fails, the Respondents would be at liberty to pass appropriate orders with regard to recovery/adjustment of the amounts paid to the Petitioner for the services rendered under this interim order. It is further made clear that this order is passed subject to the final outcome of the present Writ Petition.

**15.** The Respondents are permitted to file affidavits/additional affidavit-in-reply to the Writ Petition which shall be filed within a period of three weeks from today. The Petitioner is at liberty to file affidavit in rejoinder

thereto within a period of one week thereafter.

**16.** Place the Writ Petition along with Writ Petition (L) No.17745 of 2025 for hearing on **30 March 2026**.

**[ADVAIT M. SETHNA, J.]**

**[R.I. CHAGLA, J.]**