IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14907 OF 2022

Neha Ulhas Pathak & Ors. .... Petitioners.
Vs.
Maharashtra Public Service
Commission through Chairman & Ors. .... Respondents.

WITH
INTERIM APPLICATION NO.10138 OF 2024
IN
WRIT PETITION NO.14907 OF 2022

Neha Ulhas Pathak & Ors. .... Applicants.
Vs.
Maharashtra Public Service
Commission through Chairman & Ors. .... Respondents.

WITH
INTERIM APPLICATION NO.7889 OF 2023
IN
WRIT PETITION NO.14907 OF 2022

Ms. Tejaswini Gajanan Jaybhave .... Applicant.
V/s
Neha Ulhas Pathak and Ors. .... Respondents.

WITH
WRIT PETITION NO.6994 OF 2023

Babita Usha Kesharwani ....Petitioner.
V/s
The State of Maharashtra
through the Secretary, Law
and Judiciary Department and Anr. .... Respondents.

WITH
WRIT PETITION NO.7047 OF 2023

Nikita Dipakrao More and Ors. .... Petitioners.
V/s
The State of Maharashtra
through the Secretary,
Law and Judiciary Department & Ors. .... Respondents.

WITH
INTERIM APPLICATION NO.11881 OF 2025
IN
WRIT PETITION NO.7047 OF 2023

Aniket Suresh Jadhav ....Applicant.
V/s
Nikita Dipakrao More and
Ors. ....Respondents.

WITH
WRIT PETITION NO.7045 OF 2023

Mrs. Varsha Saudagar Jagtap and Ors. ..... Petitioners.
V/s
State of Maharashtra
through Secretary Law and Judiciary
Department and Ors. .... Respondents.

WITH
WRIT PETITION NO.16783 OF 2023

Suruchee d/o Madhusudhansingh Chouhan .... Petitioner.
V/s
State of Maharashtra through
Secretary, Department of Home & Ors. .... Respondents

WITH
INTERIM APPLICATION (ST) NO.9908 OF 2025
IN
WRIT PETITION NO.16783 OF 2023

Suruchee d/o Madhusudhansingh Chouhan ....Petitioner.
V/s
State of Maharashtra ....Respondent.

Dr. Uday P. Warunjikar a/w Mr. Sumit Kate, Advocates for the petitioner in Writ Petition Nos. 14907/2022 and Writ Petition No.7045 of 2023.

Mr. Virendra Mishra, Advocate for the petitioner in Writ Petition No.6994 of 2023.

Mr. Prasad Avhad, Advocate for the petitioners in Writ Petition No.7047 of 2023.

Mr. Prajakt M. Arjunwadkar (through VC) with Mr. Prathamesh S. Hande, Advocates for the Applicant-Intervener in Interim Application No.11881 of 2025 in Writ Petition No.7047 of 2023.

Dr. Uday P. Warunjikar a/w Mr. Piyush Pande, Advocates for the petitioner in Writ Petition No.16783 of 2023.

Mr. Ashutosh Kulkarni a/w Mr. Sarthak Diwan, Advocates for the respondent-MPSC in Writ Petition Nos. 14907 of 2022, 6994 of 2023 and 7047 of 2023.

Mrs. Neha S. Bhide, Government Pleader with Mr. O.A. Chandurkar, Additional Government Pleader and Mrs. Pooja Patil, Assistant Government Pleader for the respondent-State.

Dr. Milind Sathe, Senior Advocate with Mr. Rahul Nerlekar, Advocates for the respondent no.4-High Court of Bombay.

CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

DATE : 14TH OCTOBER 2025.

P.C. :

This batch of writ petitions pertains to appointment of Civil Judge (Junior Division) and Judicial Magistrate (First Class) for the year 2022.

2. Rule 6 of the Maharashtra Judicial Service Rules, 2008 mandates the Recruiting Authority to publish an advertisement each year in the Official Gazette and in at least two newspapers inviting applications from eligible candidates. The advertisement for the year 2022 was not issued in time and the same was published on 19th May 2023 by the Maharashtra Public Service Commission (for short, "MPSC") inviting applications to fill 114 posts of Civil Judge (Junior Division) and Judicial Magistrate (First Class) through competitive examination. Under the Rules, the upper age limit is prescribed for the candidates and the cut-off date for determining the eligibility was 19th May 2023. The common grievance of the petitioners in these writ petitions is that had the advertisement been issued in 2022, they would have been eligible to appear for the examination.

3. By an order dated 12th June 2023 (in Writ Petition No.3477 of 2023 [Nagpur Bench]), this Court permitted one of the petitioners to apply for the said post. The order records that such participation shall be without prejudice to the rights and contentions of the respondents and that no equity would be claimed by the petitioner at the time of final disposal of the petition. The results of the 2022-examination were placed before this Court on 1st October 2025 by Mr. Jagtap, the learned counsel for the MPSC, in a tabular chart dated

26th September 2025, a scanned copy of which reads as follows:

Advertisement No. 040/2024 26-09-2025

MAHARASHTRA PUBLIC SERVICE COMMISSION

CIVIL JUDGES (JUNIOR DIVISION) JUDICIAL MAGISTRATE (FIRST CLASS) COMPETITIVE MAIN EXAMINATION - 2022

TOTALADVERTISED POSTS --- 114
RECOMMENDED CANDIDARES --- 103
POSTS WITHHELD --- 11 (9 - Overage Candidates, 1 - Hon'ble Supreme Court, 1 - Reassessment Case in Hon'ble HC)

MARKS OF CANDIDATES (OVERAGE --- HON'BLE HIGH COURT CASE)

Sr. No.	Roll No.	Interview No.	Candidate Name	Marks				
				Paper 1	Paper 2	Written Total	Interview	Total
1	AU001156	6	SAWANT MANISHA ARJUN	52	55	107	25	132
2	AU002084	10	Satpute Karishma Kailas	66	50	116	25	141
3	NM001230	25	CHOPADE SEEMA DADASAHEB	59	53	112	22	134
4	NM001231	31	Rane Apurva Mahadeo	58	61	119	27	146
5	NG001120	78	Suruchee Chouhan	75	61	136	35	171
6	AU002008	146	More Nikita Deepakrao	67	62	129	31	160
7	NM001288	199	KESHARWANI BABITA RAMKHILAVAN	52	56	108	20	128
8	AU001118	246	Jagtap Varsha Saudagar	58	54	112	32	144
9	NG001070	269	JAYBHAYE TEJASWINI GAJANAN	60	57	117	30	147

4. On 7th October 2025, this Court directed the MPSC to keep three posts reserved, the relevant portion of which reads as under:-

> *"2. "Dr. Uday P. Warunjikar, the learned counsel for the petitioners states that in the eventuality, one of the aforementioned two candidates does not accept the offer for appointment to the post of Judicial Magistrate (First Class) and Civil Judge, Junior Division, the petitioner, namely, Jaybhaye Tejaswini Gajanan may become eligible for appointment. This submission has*

been opposed by Dr.Milind Sathe, the learned senior counsel for the High Court. But for the reason that there is at least one candidate who has approached the Hon'ble Supreme Court, we deem it appropriate to direct the respondent-MPSC to keep three posts reserved and it can proceed with the appointment on the other posts kept reserved by virtue of the interim orders passed by this Court."

5. We have heard the learned counsel for the parties.

6. The above table shows that amongst all the candidates only two candidates, namely, Suruchee Chouhan and More Nikita Deepakrao have secured the marks above the cut-off score of 148 marks. Thus, these two petitioners have qualified on merits and are way above the cut-off marks. Denying them the appointment shall be against the merit rule and not in the interest of the institution of judiciary which needs more and more meritorious judges. They cannot be punished for failure of MPSC to conduct the 2022-examination within the same year itself.

7. Dr. Sathe, the learned senior advocate for the respondent no.4, relied upon the following judgements:

1) Rachna & Ors. V/s Union of India, (2021) 5 SCC 638;
2) Jamaluddin V/s State of J & K, (2011) 14 SCC 725;
3) Kendriya Vidyalaya Sangathan V/s Sajal Kumar Roy, (2006) 8 SCC 671;
4) Dr. Ami Lal Bhat V/s State of Rajasthan, (1997) 6 SCC 614;
5) Hirandra Kumar V/s High Court of Judicature at Allahabad, 2020 SCC 401;
6) High Court of Kerala V/s Reshma (2021) 3 SCC 755;
7) Adv. Bhumika Durgaprasad Sarda V/s State of Maharashtra

& Ors., WP/5862/2019 (A.S)

8) Sagar Satish Patil V/s State of Maharashtra & Ors., 2024 SCC OnLine Bom 308.

8. We find that none of the judgments are applicable to the facts of the present case. So far as *Rachna's* case (supra) is concerned, the same is distinguishable on facts as the challenge in the matter was non-appearance in examination due to COVID pandemic. In the present case, the issue was on account of administrative oversight and inordinate delay from the authorities in the recruitment and examination process. Moreover, *Rachna's* case discusses age relaxation which is categorically not pleaded in the instant case by the petitioner. In *Jamaluddin* (supra), the issue was whether the principle of age relaxation is applicable to the SC/ST/OBC categories of candidates. The same is not pressed for in the present petition. *Kendra Vidyalaya* (supra) focuses on legality and principles governing the rules relating to discretion of the statutory authority relaxing the prescribed age limit in "Special Cases", whereas the rules contended in the present case do not allow any such discretion to the authorities. *Dr. Ami Lal* (supra) revolves around the central issue of fixed cut-off dates and also lays down a subjective formula for determining the principles of setting aside and intervening with the process. It holds that that if the delay on part of the authorities while advertising or conducting examination is *mala fide* in nature, then the same can be meddled with in the interest of justice. The issue herein on the lack of examination in 2022, which ought to have been done by the

MPSC. *Hirandra Kumar* (supra) decides upon the issue of age relaxation in the recruitment process and the same is not contended before this Court. In *Reshma. A* (supra), the Court dwelled into the notifications of recruitment and holds that the recruitment cannot go above and beyond the notified vacancies. It follows the principles of *Malik Mazhar's* case with respect to the three-year threshold of conducting recruitment and satisfying the vacancies. It also lays down the principles of reasonableness to be followed while conducting such recruitment processes especially in terms of posts that are of constitutional importance. In our view, the strict adherence of the rule of notified vacancies cannot go in conjunction with the administrative error which has been committed in the present case. The examinations of the previous year and the current year were conducted in the same calendar year and as a result, competent, genuine and potential candidates have suffered an irreparable loss at the instance of the conducting authorities. *Bhumika Durgaprasad Sarda's* case (supra) discussed the validity of the age limit prescribed under the rules and the same is not pressed for in the present petition. *Sagar Satish Patil's* case which has been heavily relied upon by the respondents in this matter is distinguished on a very narrow set of facts. The facts in *Sagar Satish Patil* were that the examination was conducted in the same year as the advertisement published, which is not so here. In the present case, the examination was conducted in the subsequent year (2023) along with the scheduled examination of the 2023's Candidates resulting in two examinations within the same annual year. The crux of *Sagar*

Satish Patil also involves the petitioner claiming age relaxation on the basis of a government resolution which is not the case herein.

9. There are large number of posts in lower judiciary that remain unfilled across the country because the Examining Body which conducts the examination is unable to find candidates who are upto the mark. Needless to state that in judicial service, our country needs meritorious judicial officers who can contribute to reduction of pendency. Rule 5(3)(c) provides that the age is calculated as on the date of publication of advertisement. There is no specific provision as to relaxation of age in case the advertisement is not published on the dates according to the schedule. However, the petitioners herein are not claiming any age relaxation as such. They were eligible for the 2022-examination, if the advertisement was released in that year itself. Despite known vacancies, the advertisement was not published. The delay in not advertising the 2022-examination shall cause unrecoverable damage to meritorious candidates and that would be unfair to them if they are not held entitled to compete for 2022-vacancies. They cannot be faulted for the missed attempt rendered due to circumstances that were beyond their control.

10. There are atleast two other candidates, namely, Jaybhaye Tejaswini Gajanan (147 marks) and Rane Apurva Mahadeo (146 marks) who will have to wait the final cut-off mark computation by MPSC. However, we need to indicate that if any candidate does not accept the offer of appointment

then such post shall not be available to the wait-listed candidates. The writ petition of the remaining candidates who are way below the cut-off mark; currently at 148 marks cannot be adjudicated at this stage because there may be a situation that the cut-off point goes below the present score of 148 marks.

11. In view of the aforementioned reasons and circumstances, the following order is passed:-

(i) Writ Petition No.16783 2023 (Suruchee Chouhan) and Writ Petition No.7047 of 2023 (More Nikita Deepakrao) are allowed. The Interim Application (St) Nos. 9908 of 2025 and 11881 of 2025 pending in these writ petitions do not survive and stand disposed of.

(ii) Writ Petition No. 14907 of 2022 (Ms. Tejaswini Gajanan Jaybhaye) with 147 marks and Writ Petition No.7047 of 2023 (Rane Apurva Mahadeo) with 146 marks are kept pending. List the same on 6th November 2025.

(iii) Writ Petition Nos.6994 of 2023 (Babita Usha Kesharwani), Writ Petition No.7045 of 2023 (Mrs. Varsha Saudagar Jagtap and Ors) Writ Petition No.7047 of 2023 (Manisha Arjun Sawant, Karishma Kailas Satpute) are also posted on 6th November 2025.

(iv) MPSC shall inform the Court as to whether any vacancies survive or if there is any reduction in the cut-off marks which may alter the qualification chances of these candidates mentioned in this order.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**

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