

M.A.NO. 119/2020 IN O.A.NO. 84/2020
(Chunilal M. Yawalkar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

O R D E R

By this Misc. Application the applicant is seeking condonation of delay of 9 years cause in challenging the Government Resolution dated 29th May, 2010.

2. The applicant has filed accompanying Original Application No. 84/2020 seeking directions to set aside the termination order dated 13.1.2020 and to reinstate him to the post of Lab. Assistant. He has also challenged the Government Resolution dated 29.5.2010 stating that it is unconstitutional.

3. According to the applicant, the objection of the limitation as regards maintainability of the application in respect of Government Resolution dated 29.5.2010 was raised by the learned Presiding Officer of this tribunal on 12.2.2010 stating that it is beyond limitation.

4. The applicant was appointed as Lab. Assistant in the office of respondent No. 3, Superintending Engineer, Water Resources Department, Quality Control Circle, Sinhan Bhavan Premises, P.B. No. 519, Jalna Road, Aurangabad,

by order dated 30.7.2012. Before selection he was working as part timer in the office of the Tahsildar. Therefore, by giving grace marks under Government Resolution dated 19.3.1998 he was selected from the category of part time employee by the Selection Committee (constituted by respondent No. 3). The applicant was made permanent and he worked for about seven years. He belongs to handicapped category.

5. Respondent No. 3, however, issued show cause notice dated 20.12.2019 in which it was stated that the provisions of Government Resolution dated 29.5.2010, by which G.R. dated 19.3.1998 was cancelled, were not considered through oversight and grace marks were given to him and he was selected. The applicant, therefore, is liable to be dismissed. For the first time, the applicant came to know about the said Government Resolution dated 29.5.2010 at that time only.

6. In view of the above, the applicant in O.A. has challenged constitutionality of the said Government Resolution dated 29.5.2010, as well as, he has challenged the show cause notice dated 20.12.2019.

7. It is the contention of the applicant that cause of action of the Government Resolution is recurring and delay, if any is not deliberate or intentional.

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8. Affidavit in reply is filed on behalf of respondent No. 3 by Sharad Rajaram Sonwane, Executive Engineer, Quality Control Division, Dhule, District Dhule. He thereby denied the adverse contentions raised by the applicant. It is the contention of this respondent that the applicant submitted applications dated 27.4.2012 and 16.5.2012 (part of Annexure 'R-1' collectively) to consider his case for giving grace marks on the basis of Government Resolution dated 19.3.1998, as he had secured only 72 marks. He was not eligible for selection and on the basis of the applications submitted by the applicant, he was given 9 marks as grace marks. In fact, the said earlier Government Resolution dated 19.3.1998 was cancelled by the Government by subsequent Government Resolution dated 29.5.2010. In view of the same, according to this respondent the applicant got appointment by misrepresentation on his part by playing mischief with the Selection Authority and when this fact came to the knowledge of the authority, by following the procedure the impugned letter dated 20.12.2019 is issued, which is just and proper. No sufficient cause has been shown by the applicant for condonation of delay. The applicant has no case on merits. The delay is of 9 years. Hence, the present Misc. Application is liable to be dismissed.

9. Similar affidavit in reply is filed on behalf of respondent No. 5 resisting the present Miscellaneous Application.

10. Heard Shri A.D. Sugdare, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

11. Considering the facts as above, it can be seen that the matter revolves around the want of knowledge of the respondents about the existence of Government Resolution dated 29.5.2010, when the appointment was given to the applicant on the basis of benefit of giving grace marks applicable to the part timer vide Government Resolution dated 19.3.1998.

12. By affidavit in reply the respondents have come out with the case that on misrepresentation of the applicant vide his applications/letters dated 27.4.2012 and 16.5.2012, the applicant was given benefit of Government Resolution dated 19.3.1998. Perusal of both these applications, which are part of Annexure 'R-1' collectively, would show that the applicant has referred to two GRs dated 19.3.1998 & 26.8.2005, which were mentioned in the advertisement issued in newspaper LOKMAT on 19.6.2011 by the Commissioner, Social Welfare, Maharashtra Government, Pune. There is nothing on record to show that at that point of time the applicant had knowledge

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about the Government Resolution in question dated 29.5.2010 and he suppressed it. It was for the respondents to supervise the functioning of "Selection Agency" and ascertain that the same had taken decision under provisions of Government Resolutions in force. In view of the same, *prima facie* at this stage it cannot be said that the applicant was given appointment on misrepresentation of the applicant alone without any commission or omission by the Selection Agency and the respondents. In view of the same, it appears that the applicant is challenging the validity of Government Resolution dated 29.5.2010, which G.R. was either not known to either of the party till show cause notice dated 20.12.2019 was issued or there is something more that meets one's eyes. It is a matter of record that the applicant said to have been aggrieved by the action of the respondents by the impugned letter dated 20.12.2019, wherein there is mention of Government Resolution dated 29.5.2010. In view of the same, in our considered opinion, this is a fit case for condonation of delay by taking into account the need to ascertain true fact in the matter as well as to take view on injury caused to the applicant by virtue of the said Government Resolution dated 29.5.2010. Taking a pure technical view in this regard may result into allowing true facts to remain unearthed which will be detrimental to cause of good administration. Refusing to

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give indulgence in the matter is likely to defeat the cause of justice at the threshold.

13. In view of above, this is a fit case to condone the delay of about 9 years caused in filing accompanying Original Application. We, therefore, proceed to pass the following order: -

ORDER

The present Miscellaneous Application is allowed.

(ii) The delay, if any caused in filing accompanying Original Application is hereby condoned.

(iii) Accordingly, the present Miscellaneous Application stands disposed of with no order as to costs.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION ST. NO. 621 OF 2021
(Bhimrao S. Bilapatte Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Mahesh L. Muthal, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks time. Time granted.
3. S.O. to 17.8.2021.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 851/2019
(Ravindra R. Gite Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Ashish Rajkar, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned Presenting Officer for the respondents, S.O. to 18.8.2021 for hearing of the matter.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 333/2020
(Arjun M. Pawar Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Shri K.B. Jadhav, learned Advocate for the applicant (**Absent**). Smt. M.S. Patni, learned Presenting Officer for the respondent nos. 1 & 3 is present. Shri Shamsundar B. Patil, learned Advocate for respondent no. 2 (**Absent**).

2. At the request of learned Presenting Officer for the respondents, S.O. to 20.8.2021 for filing affidavit in reply of concerned respondents.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 640/2019

(Pradeep M. Kaushike Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 2.8.2021 for taking instructions from the applicant and placing on record relevant documents, if any.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 447/2020
(Vaishali V. Hinge Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. With consent of both the sides, S.O. to 4.8.2021.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 337/2020
(Avinash S. Adke Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Smt. Punam Mahajan, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 9.8.2021.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO. 1102/2019

(Rajendra L. Patil & Ors. Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicants, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 1 to 3, Smt. Punam Mahajan, learned Advocate for respondent nos. 4 to 6 and Shri S.D. Joshi, learned Advocate for respondent Nos. 8 & 9. None appears for respondent no. 7, though duly served.

2. During the hearing of the arguments, it transpires that the applicants are placing reliance on the earlier decisions of the Tribunal. Those decisions are delivered by the respective learned Division Benches. Learned Advocate for the applicants submits that those previous decisions were on broader perspective, whereas in the present case the applicants are seeking only repatriation of private respondents and consequential benefits to the applicants, which is somewhat on narrower perspective and hence would be entertained by the Single Bench.

3. At the beginning of the arguments the learned Advocate for the respondent nos. 4 to 6 and learned C.P.O. for respondent nos. 1 to 3 state that they have raised the issue of maintainability of the present O.A., however, the issue regarding maintainability of the present O.A. can be taken care of at the time of hearing of the case finally and not in piecemeal. However, considering the issue involved in the previous decisions delivered by the learned Division Bench of this Tribunal and the issue involved in the present matter, wherein the applicants have challenged the inappropriate action of the respondents at the time of filling the posts of Dy. Inspector General from the feeder cadre of Deputy Collector in excess quota, it seems that the scope is of similar nature.

4. In view of above, in my considered view, this is a fit case to refer it before the Division Bench and considering the issue involved in the present case for expeditious hearing.

5. Accordingly, S.O. to 9.8.2021 before the Division Bench for hearing.

MEMBER (J)

M.A. 85/2021 IN O.A. ST. 348/2021
(Shankar F. Pawar Vs. The State of Mah. & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Ashish Rajkar, learned Advocate holding for Shri K.B. Jadhav, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents.

2. At the request of learned P.O., S.O. to 20.8.2021 for filing affidavit in reply of the respondents.

MEMBER (J)

ARJ ORAL ORDER 27.7.2021

ORIGINAL APPLICATION NO.364/2021
(Vinayak Kalambkar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.B.Jadhav learned Advocate holding for Shri V.S.Kadam, learned Advocate for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. It is observed that on page 18 of the paper book a photocopy of part of service book has been attached. However, it is noticed that whitener is applied on certain entries. Learned Advocate Shri V.S.Kadam has certified the copy, however there is no initials or his sign on the space where the whitener is applied. This point needs to be explained by the applicant.

3. Point of interim relief is kept open.

4. Meanwhile, issue notices to the respondents, returnable on 18-08-2021.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book

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O.A.No.364/2021

of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

9. S.O. to 18.08.2021.

10. Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

ORIGINAL APPLICATION NO.83/2020
(Devendra Sonar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.D.Gadekar learned Advocate holding for Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Shri M.P.Gude, learned Presenting Officer for the respondents.

2. Learned P.O. seeks time to file affidavit in reply on behalf of the respondents. Time is granted.
3. S.O. to 25-08-2021.

MEMBER (A)

YUK ORAL ORDERS 27.07.2021

ORIGINAL APPLICATION NO.265/2017
(Dr. Suresh Karmunge Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri I.D.Maniyar, learned Advocate for the applicant and Smt. Sanjivani Ghate, learned Presenting Officer for the respondent nos.1 to 3 and Shri P.R.Tandale learned Advocate for respondent no.4.

2. Notices have been duly served on respondent nos.1 to 4. All the respondents have filed affidavit in reply.
3. Calculation sheet of interest clarified by the applicant has been enclosed as Annexure A-13 of O.A.
4. Learned Advocate for the respondent no.4 has also filed a short note of arguments. Learned Advocate for the respondent no.4 has prayed for adjournment till next date.
5. S.O. to 12-08-2021.

MEMBER (A)

ORIGINAL APPLICATION NO.361/2019

(Jijabai Sonwane & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.D.Gadekar, learned Advocate for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondents.

2. Affidavit in reply on behalf of the respondent nos.1 and 2 is awaited.

3. Notice of learned P.O. is drawn to provision of Section 116(6)(a)(i) of Maharashtra Civil Services Pension Rules, 1982 and also towards case law in Kantabai Dhulaji Shriram & Ors. V/s. Hausabai Dhulaji Shriram & Ors. pronounced by Hon'ble High Court of Judicature of Bombay Bench at Aurangabad in Civil Revision Application No.72/2013 judgment delivered on 25-10-2013 and judgment of Hon'ble Supreme Court in case of Rameshchandra Daga V/s. Rameshwari Daga [AIR 2005 SC 422] and order of Maharashtra Administrative Tribunal Bench at Aurangabad in Review Petition No.208/2017 in O.A.No.169/2015 (Smt. Radhabai Ranuji Muley V/s. State of Maharashtra & Ors. dated 15-02-2017 which he should respond on the next date by filing reply of respondent nos.1 and 2.

3. S.O. to 18-08-2021.

MEMBER (A)

ORIGINAL APPLICATION NO.89/2019

(Rajendra A. Jehurkar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.D.Joshi, learned Advocate for the applicant, Shri D.R.Patil, learned Presenting Officer for the respondents and Shri V.B.Wagh learned Advocate for respondent no.4.

2. Respondent nos.1 to 3 were allowed to respond whether approval of next higher authority as stipulated in the Transfer Act had been obtained. Secondly, speaking note requiring transfer on administrative ground does not appear to be there. However, the respondents have cited relevant parts of their submissions on page 21 to 24 paragraph 11 and 12 of paper book at the time of arguments.

3. While arguing learned Advocate for the Respondent no.4 has cited contents in paragraph 3 to 9 of page 45 to 49 of paper book and has advanced following arguments:

(a) Transfer from one office to another situated in same floor of same building does not amount to transfer as per the Transfer Act.

(b) Secondly, the applicant has not cleared prescribed examination in 3 attempts in 4 years and therefore, he is not eligible to be continued in service or seniority. In view of this fact that the competent authority has taken a lenient view and instead of

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O.A.No.89/2019

terminating his services he is allowed to continue by transferring him from one office to another office which is within the competence of the competent authority ordering transfer.

Learned Advocate for the respondent no.4 has requested for a week's time for submitting case laws on this point.

4. The applicant was required to respond to the contents of Annexure A-5 page 16 of the paper book as per which the applicant had indicated his willingness to accept one of the 2 options (i) to allow him to continue on the present post for 3 years as per rules or (ii) to transfer him to the office of Chief Engineer (Regional), Aurangabad. Learned Advocate for the applicant mentioned that explanation for this is contained in paragraph 4 of the same representation highlighting past experience of the applicant of not being allowed to join in the office of National Highways Division.

5. All the parties have completed their respective arguments. One week's time has been given for submitting summary of the arguments and case laws, if any.

6. S.O. to 03-08-2021.

MEMBER (A)

**ORIGINAL APPLICATION ST. NO. 769 OF 2021
(Bhau G. Chaudari Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate holding for Shri Ajit M. Gholap, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents.

2. There is office objection regarding the issue of limitation. The applicant is seeking relief of quashing and setting aside the communication dated 30.10.20215 (Annexure A-1) issued by the respondent No. 3, which pertains to grant of pay till the date of retirement i.e. 31.08.2010, revision of fixation of pensionable pay and grant of arrears thereof (due minus drawn) and continue to pay further pension on the basis of re-fixation of pensionable pay.

3. Learned Advocate for the applicant submits that in paragraph No. 3 of the O.A., the applicant has explained that it is recurring cause of action and that as such not barred by the period of limitation. The applicant in order to support the said contentions has

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placed reliance on the judgment of the Hon'ble Supreme Court in the matter of M.R. Gupta Vs. Union of India reported in 1995 (5) SCC 628. In such circumstances, in our considered opinion, it would be just and proper to have say of the other side on the issue of limitation. Hence, the point of limitation is kept open.

4. Issue notices to the respondents, returnable on 01.09.2021.

5. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

//3// O.A. St. 769/2021

8. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

9. S.O. to 01.09.2021.

10. Steno copy and Hamdast is allowed to both parties.

11. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

M.A. St. No. 843/2021 in O.A. St. No. 844/2021
(Vivekanand V. Auti & Anr. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.S. Dambe, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicants pursuant to the order passed by this Tribunal on 23.07.2021 submitted that he has placed on record copy of the representation dated 12.07.2021 at page No. 249 of paper book and at this stage, he further submitted that in that regard he would seek permission of this Tribunal to amend the Original Application. In our opinion, as the representation is produced by the applicant on record and therefore, in order to settle controversy between the parties, it would be just and proper to grant permission to the applicants to amend the O.A. Accordingly it is ordered in that regard. Hence, permission is granted to amend the O.A. The applicant shall amend the O.A. on or before the next date of hearing.

//2// M.A. St. 843/2021 in
O.A. St. 844/2021

3. Learned C.P.O. submits that within a day or two, he would seek instructions from the respondents as regards representation dated 12.07.2021 including the capacity to train candidates.

4. S.O. to 29.07.2021.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 27.07.2021

M.A. No. 207/2021 in O.A. St. No. 644/2021
(Pravin R. Hivrale & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By this Misc. Application, the applicants are seeking permission to sue the respondents jointly in accompanying O.A. St. No. 644/2021.

3. There was office objection to the effect that the applicant Nos. 2 to 8 and 11 are not residing within the territorial jurisdiction of this Bench of the Tribunal.

4. In this regard, the learned Advocate for the applicants submits that the applicants are from various places all over the Maharashtra. Those applicants moved M.A. No. 214/2021 in O.A. St. No. 644/2021 before the Hon'ble Chairperson of this Tribunal at Mumbai under Section 25 of the Administrative Tribunals Act, 1985. By the order

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M.A. 207/2021 in
O.A. St. 644/2021

dated 29.06.2021, the said M.A. was allowed by the Hon'ble Chairperson at Mumbai and the applicants are allowed to prosecute the O.A. St. No. 644/2021 before this Bench.

5. It is the contention of the applicants that they are identically placed in as much as they seek to assail denial of appointment on the part of respondent No. 1 to issue orders of appointment to the next meritorious candidates, upon selected 19 candidates having declined to join as Junior Engineer, although offered appointment. According to the applicants further it is simply inaction on the part of the respondent No. 1 in undertaking process of filling up unfilled 19 vacancies out of 405 notified vacancies.

6. In view of the above, it is evident that the cause of action and grievance pleaded by the applicants are identical and as such in order to avoid multiplicity of proceedings, it is just and proper to grant permission to the applicants to sue the respondents jointly. Hence, following order:-

ORDER

1. The M.A. No. 207/2021 is allowed and disposed of with no order as to costs.

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M.A. 207/2021 in
O.A. St. 644/2021

2. The applicants are permitted to sue the respondents jointly, subject to payment of court fee stamps, if not paid.
3. Accompanying O.A. be registered on due scrutiny.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 27.07.2021

**ORIGINAL APPLICATION ST. NO. 644 OF 2021
(Pravin R. Hivrale & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Advocate for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant submits that in the impugned letter dated 17.02.2021 (Annexure A-5) issued by the respondent No. 1 there is reference of undated letter addressed by the applicant No. 1 to the Hon'ble Minister of State of Water Resources Department and KADA. However, copy of the said letter is not placed on record. Therefore, he seeks permission to place on record the said undated letter. Permission granted.

3. Issue notices to the respondents, returnable on 26.08.2021.

4. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

//2// O.A. St. 644/2021

5. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

8. S.O. to 26.08.2021.

9. Steno copy and Hamdast is allowed to both parties.

10. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 01 OF 2019
(Laxman V. Bharde Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.

2. Record shows that pleadings up to sur-rejoinder are complete. The issue involved in the matter is of quashing and setting aside the impugned memorandum of charge sheet dated 25.04.2017 (Annexure A-2) in the Departmental Enquiry proceedings issued by the respondent No. 1.

3. Hence, the present matter is admitted and it is fixed for final hearing on 15.09.2021.

MEMBER (A)

MEMBER (J)

C.P. No. 26/2019 in O.A. No. 793/1996
(Chokhoba S. Kharat Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate holding for Shri P.G. Rodge, learned Advocate for the applicant, Smt. M.S. Patni, learned Presenting Officer for the respondent No. 1 and Shri S.B. Mene, learned Advocate for respondent Nos. 2 & 3.

2. Record shows that affidavit in reply is filed on behalf of respondent No. 3.
3. Learned Advocate for the applicant seeks time for filing rejoinder affidavit. Time granted.
4. S.O. to 23.08.2021.
5. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 444 OF 2019
(Dnyanoba S. Bilapate Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The present O.A. is filed challenging the initiation of the Departmental Enquiry against the applicant by way of charge sheet dated 18.08.2017 (Annexure A-2).

3. Record shows that pleadings up to rejoinder affidavit are complete.

4. The applicant in rejoinder affidavit has stated that the Enquiry Officer has submitted his report dated 17.06.2019 in respect of Departmental Enquiry held against the applicant to the respondent No. 1, but till today no decision has been taken. In view of the same, learned Advocate for the applicant submits that the respondents be directed to place on record status report.

//2//

O.A. No. 444/2019

5. Learned Presenting Officer submits that he would seek instructions from the concerned respondents and will place on record status report on or before the next date of hearing.

6. S.O. to 16.09.2021.

MEMBER (A)

MEMBER (J)

KPB ORAL ORDERS 27.07.2021

ORIGINAL APPLICATION NO. 717 OF 2019
(Rajendra A. Shirsath Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Amit Savale, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply is filed on behalf of respondent Nos. 1 to 4.

3. Learned Advocate for the applicant submits that rejoinder affidavit is not necessary.

4. The issue involved in the present matter pertaining to impugned termination order dated 28.11.2017 issued by the respondent No. 4.

5. In view of above, the present matter is admitted and it is fixed for final hearing on 06.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 58 OF 2020
(Ritesh R. Kaware & Ors. Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri R.K. Ashtekar, learned Advocate for the applicants, Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri Avinash S. Deshmukh, learned Advocate for respondent No. 4.

2. At the request and by consent of both the parties, S.O. to 03.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 435 OF 2020
(Ratikant R. Sonwane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.

2. Record shows that affidavit in reply is filed on behalf of respondent Nos. 1 to 3.

3. Learned Advocate for the applicant submits that just he has received copy of the said affidavit in reply of respondent Nos. 1 to 3.

4. S.O. to 02.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO. 523 OF 2020
(Rajkumar G. Sonawane Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Ajay Deshpande, learned Advocate for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondents.

2. Record shows that notices are served upon the respondents in January, 2021. Since then, the affidavit in reply is not filed by the respondents. By the order dated 14.12.2020, while issuing the notices by this Tribunal in para No. 4 it is observed that if any promotion orders are issued by the respondent No. 1, then the same will be subject to final decision in this O.A.

3. Learned Presenting Officer seeks time for filing affidavit in reply on behalf of respondents.

4. Learned Advocate for the applicant submits that after receipt of notice in the present O.A., promotions have been issued by the respondents, but he is not having details of those promotions.

//2// O.A. NO. 523/2020

5. Our attention is invited by the learned Presenting Officer to prayer clause 18 (c), which is interim relief sought by the applicant seeking stay to the further promotions to the cadre of Dy. Superintendent of Police / Assistant Commissioner of Police (Unarmed).

6. In view of above, short time is granted for filing affidavit in reply to the respondents.

7. S.O. to 09.08.2021.

8. The present matter be placed on separate board.

MEMBER (A)

MEMBER (J)

M.A.NO.248 OF 2020 IN O.A.ST.NO.913 OF 2020
(Shri Rajendra B. Pawar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate holding for Shri K.B. Jadhav, learned Advocate for the Applicant and Shri I.S. Thorat, learned Presenting Officer for the Respondents.

2. Issue fresh notice to the respondent no.1 in M.A.No.248/2020, returnable on 06.09.2021.
3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

// 2//

M.A.248/2020 IN O.A.St.913/2020

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. Affidavit-in-reply filed on behalf of Respondent No.3 is taken on record and copy thereof has been served on the other side.

8. Learned P.O. for the Respondents seeks time for filing affidavit-in-reply on behalf of Respondent Nos.2 & 4. Time granted.

9. S.O. to 06.09.2021.

10. Steno copy and Hamdast is allowed to both parties.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.654 OF 2013

(Dr. Amol S. Pawar Vs. State of Maharashtra & Ors.)

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Ms. Surekha Mahajan, learned Advocate for the Applicant and Smt. Sanjivani K. Deshmuk-Ghate, learned Presenting Officer for the Respondents.

2. Record shows that by order dated 22.07.2021 it is observed by this Tribunal that considering the nature of controversy involved, affidavit-in-reply of Respondents is necessary and time was granted till 31.08.2021 for that.

3. Learned Advocate for the Applicant submits that the present matter is pending since long i.e. from 2013 and expeditions hearing of this matter would only serve the ends of justice.

4. In the circumstances, the Respondents are directed to file affidavit-in-reply and supply the copy of the affidavit-in-reply to the Applicant before the next date i.e. 31.08.2021 positively.

5. S.O. to 31.08.2021.

MEMBER (A)

MEMBER (J)

R.A.NO.08 OF 2017 IN O.A.NO.498 OF 2013

(Shri Shivraj D. Hawanna Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the Applicant and Smt. Sanjivani K. Deshmuk-Ghate, learned Presenting Officer for the Respondents.

2. S.O. to 03.09.2021 for final hearing.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 27.07.2021-SAS

ORIGINAL APPLICATION NO.6 OF 2018

(Shri Ganesh B. Kundle Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the Applicant and Shri S.K. Shirse, learned Presenting Officer for the Respondents.

2. Learned Advocate for the Applicant submitted that while preparing for the final hearing of this matter he come across the order dated 29.09.2016 passed in Criminal Appeal No.29 of 2015 whereby the Criminal Appeal filed by the Applicant against his conviction was partly allowed. The said order dated 29.09.2016 in Criminal Appeal No.29 of 2015 is passed by one of the members of this Tribunal (Shri V.D. Dongre) while he was working as Sessions Judge at Latur.

3. In view of the same, this matter may be placed before the Division Bench where one of the members (Shri V.D. Dongre) would not be judge.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.414 OF 2018

(Vranda P. Sadgure Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)

AND

Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the Applicant, Shri I.S. Thorat, learned Presenting Officer for the Respondent Nos.1 to 3 and Ms. Preeti R. Wankhade, learned Advocate for the Respondent No.4.

2. Learned Advocate for Respondent No.4 seeks time for filing affidavit-in-reply to the short affidavit filed by the Applicant on the last date. Time is granted.

3. S.O. to 27.08.2021 for hearing.

MEMBER (A)

MEMBER (J)

O.A.NOS. 626, 641 & 642 ALL OF 2019

(Shri Sheshrao R. Giri & Ors. Vs. State of Maharashtra & Ors.)

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Shri S.K. Mathpati, learned Advocate for the Applicants in all the O.As. and Shri S.K. Shirse, learned Presenting Officer for the Respondents in all the O.As.

2. Learned Advocate for the Applicants places on record the common judgment passed in Writ Petition No.12531 of 2019 and two others dated 04.05.2021 and copy of order dated 04.05.2021 in Writ Petition No.1438 of 2021 passed by the Hon'ble Bombay High Court in order to support the controversy raised in the present matters which are similar nature of Writ Petitions. He submits that similar issue is decided by Hon'ble High Court in these Writ Petitions.

3. On the other hand, learned P.O. submits that the Respondents have completed the formality of filing Review Application against the various orders passed by the Hon'ble High Court in similar matters and till then the learned P.O. seeks status-quo. In that regard he has placed on record the communication received from the Divisional Joint Director of Agricultural, Latur Division

//2//

**O.A.Nos.626,641 & 642 All
Of 2019**

Latur. It is taken on record and marked as document 'X'
for the purpose of identification.

4. S.O. to 06.09.2021 for hearing.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 27.07.2021-SAS

**C.P.NO.20/2019 WITH M.A.NO.97 OF 2012 IN
O.A.NO.817 OF 2011
(Shri Shivaji V. Patil Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the Applicant, Shri N.U. Yadav, learned Presenting Officer for the Respondent Nos.1 & 2 and Shri S.B. Mene, learned Advocate for the Respondent No.3.

2. At the request of the learned Advocate for the Applicant, S.O. to 14.09.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 27.07.2021-SAS

**C.P.NO.43/2019 WITH M.A.NO.97 OF 2012 IN
O.A.NO.817 OF 2011
(Shri Dharampal U. Dethe Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)**

DATE : 27.07.2021

ORAL ORDER :

Heard Shri A.B. Rajkar, learned Advocate for the Applicant, Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondent Nos.1 & 2 and Shri D.T. Devene, learned Advocate for the Respondent No.3.

2. At the request of learned Advocate for the Respondent No.3, time is granted for filing affidavit-in-reply.
3. S.O. to 14.09.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.1069 OF 2019
(Shri Prabhakar M. Kathar Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.G. Pingle, learned Advocate for the Applicant and Shri M.P. Gude, learned Presenting Officer for the Respondents.

2. Learned P.O. for the Respondents submits that he would deposit the amount of costs as ordered on the last date i.e. on 08.07.2021. He placed on record the letter received from the Respondents for seeking time for filing affidavit-in-reply. It is stated that para-wise remarks are ready and it is submitted to Government for approval. The copy of the same is taken on record and marked as document 'X' for the purpose of identification.

3. In view of same, two weeks time is granted for filing affidavit-in-reply on behalf of the Respondents.

4. S.O. to 10.08.2021.

MEMBER (A)

MEMBER (J)

ORIGINAL APPLICATION NO.333 OF 2021
(Supriya G. Nande Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri P.G. Tambade, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

2. Learned C.P.O. seeks time for filing affidavit-in-reply on behalf of the Respondents. Time is granted.
3. S.O. to 23.08.2021.

MEMBER (A)

MEMBER (J)

ORAL ORDERS 27.07.2021-SAS

ORIGINAL APPLICATION NO.148 OF 2021
(Shri Dattaram U. Rathod Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Shri V.D. Dongre, Member (J)
AND
Hon'ble Shri Bijay Kumar, Member (A)

DATE : 27.07.2021

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the Applicant and Smt. M.S. Patni, learned Presenting Officer for the Respondents.

2. Learned P.O. for the Respondents seeks time for filing affidavit-in-reply on behalf of the Respondents. Time is granted.

3. S.O. to 14.09.2021.

MEMBER (A)

MEMBER (J)

Date :27.07.2021

ORIGINAL APPLICATION NO.360 OF 2021

(Shri Kishan D. Sangle V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri S.S. Tandale, ld. Advocate for the applicant and Shri M.S. Mahajan, ld. C.P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 27.08.2021. The case be listed for admission hearing on 27.08.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :27.07.2021

ORIGINAL APPLICATION NO.353 OF 2021

(Shri Sunil J. Kamble V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri S.S. Tandale, ld. Advocate for the applicant and Shri V.R. Bhumkar, ld. P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 27.08.2021. The case be listed for admission hearing on 27.08.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date :27.07.2021

ORIGINAL APPLICATION NO.369 OF 2021

(Naushadbee Ibrahim Shaikh V/s The State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri A.R. Barate, ld. Advocate holding for Shri S.B. Choudhari, ld. Advocate for the applicant and Shri M.P. Gude, ld. P.O. for the respondents, are present.
2. Circulation is granted. Issue notices to the respondents, returnable on 27.08.2021. The case be listed for admission hearing on 27.08.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR

Date : 27.07.2021

O.A. 378/2021

(Raju Husen Sayyed V/s State of Maharashtra & Ors.)

Per :- Standing directions of Hon'ble Chairperson, M.A.T., Mumbai

1. Shri Gaurav L. Deshpande, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned P.O. for respondents, are present.
2. Circulation is granted. Issue notice to the respondents, returnable on 13.8.2021. The case be listed for admission hearing on 13.8.2021.
3. Tribunal may take the case for final disposal at this stage and a separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on Respondent intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with Affidavit of compliance in the Registry as far as possible before the returnable date fixed as above. Applicant is directed to file Affidavit of compliance and notice.

REGISTRAR