

- 1 -

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**WRIT PETITION NO.255 OF 1996**

Sangamner Nagar Palika,  
(through its Chief Officer)  
Tq. Sangamner Dist. Ahmednagar. ...Petitioner...

**Versus**

- 1 Sangamner Nagar Palika,  
Kamgar Sanghatna,  
(Through its General Secretary)  
Trade Union Centre, Tahsil  
Kacheri, Sangamner,  
Dist. Ahmednagar.
  - 2 The State of Maharashtra  
Through G. P.  
High Court. Aurangabad.
  - 3 The Director of Municipal  
Administration.  
Nashik Division, Nashik.
- ...Respondents...

**WITH**

**WRIT PETITION NO.1845 OF 2004**

Sangamner Nagar Palika,  
Kamgar Sanghatna,  
Srinivas S/o. Narayan Pagdal,  
C/o. Trade Union Centre,  
Tahasil Kacheri Road, Sangamner,  
District-Ahmednagar. ...Petitioner...

**Versus**

- 2 -

1 Sangamner Municipal Council,  
(Through its Chief Officer,  
Sangamner, Dist. Ahmednagar)

2 The State of Maharashtra  
(through the Director of  
Municipal Administration,  
Bombay.)

...Respondents...

.....

Shri V. S. Bedre, Advocate for petitioner.  
Shri S. K. Shelke, Advocate for respondent No.1.  
Shri V. G. Shelke, AGP for respondent No.2.  
Respondent No.3 served.

.....

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE: 17.12.2015**

**ORAL JUDGMENT :**

1] The first petition was admitted by this Court on 28.10.1996. Interim relief was refused to the petitioner – Municipal Council.

2] The second petition filed by the Union was initially refused registration by the order of the Additional Registrar dated 6.1.1997 on account of non-removal of office objections. By an order passed on 6.11.2003 in Civil Application No.3446/1998, the order of the Registrar dated 6.1.1997 was set aside and the petition was registered. Same is yet to be admitted.

- 3 -

3] Since both these petitions are filed by the same litigating parties before the Industrial Court i.e. the Municipal Council – employer and the Union, and the same judgment dated 1.8.1995 delivered by the Industrial Court in Complaint (ULP) No.136/1991 has been challenged in both these petitions, I am hearing both the petitions together. As such, insofar as the second petition filed by the Union is concerned, Rule. Rule made returnable forthwith by the consent of the parties and heard alongwith Writ Petition No.255/1996.

4] Shri V.S. Bedre, learned Advocate for the employer criticizes the impugned judgment dated 1.8.1995 delivered by the Industrial Court by which the 90 employees mentioned in the operative part of the impugned judgment have been granted permanency and benefits incidental and consequential thereto from the date of the order 1.8.1995. He further assails the direction of the Industrial Court granting Rs.7,000/- compensation to each of the 90 employees.

5] Shri Bedre has canvassed a host of factors. Same have been refuted by Shri Shelke. However, in the light of the order that I intend to pass, I am not

- 4 -

required to advert to the entire submissions of both the learned Advocates.

6] Suffice it to say that the judgment of the Industrial Court dated 1.8.1995 is under challenge by the employer seeking the quashing and setting aside of the judgment. The Union has preferred the second petition praying for extension of the permanency benefits granted by the Industrial Court from the date of filing of the complaint 2.3.1991.

7] An additional ground raised by the Union in its petition is that 13 workers out of the 90, who have benefited from the impugned judgment of the Industrial Court, have been wrongly regularized as Majoor (Majdoor). Their actual working is different. Considering the same, the Municipal Council passed a resolution on 2.12.2004 by which it was resolved that the benefits extended to the concerned 13 employees mentioned in the resolution, would be in relation to the actual positions of Clerks on which they have been working and as such, they would be regularized on the position of Clerks and not Majoor (Majdoor) or Watchman.

8] The above contention of Shri Shelke based on the

- 5 -

resolution dated 2.12.2004 passed by the general body of the Municipal Council, though is refuted by Shri Bedre, I find little force in his submission. It is apparent that the Municipal Council cannot go against its resolution. In the light of the above, the Municipal Council will be duty bound to give effect to the said resolution.

9] Insofar as the grounds raised by the Municipal Council against the impugned judgment dated 1.8.1995 are concerned, the same are rendered unsustainable in the light of the oral and documentary evidence, which was before the Industrial Court and the reasons assigned by the Industrial Court in delivering the impugned judgment.

10] It cannot be ignored that the Municipal Council has granted regularization to all these 90 employees with effect from 1.8.1995. The petition filed by the Union is for seeking benefits of regularization from the date of filing of the complaint, which is 2.3.1991. The Union has placed reliance upon a judgment and award dated 25.1.1967 delivered by the Industrial Tribunal, Maharashtra at Mumbai in Reference (IT) No.195/1966 in between Sangamner Municipality, Sangamner (the present petitioner - employer) and the workmen (temporary daily

- 6 -

rated) employed by it. By the said award, Sangamner Municipality was directed to grant permanency and benefits incidental thereto to all the temporary workmen upon their completing one year of continuous service. Shri Shelke, therefore, submits that these workers would be entitled to similar benefits as like their senior co-workers.

11] I have gone through the award dated 25.1.1967. It was specifically concluded by the Industrial Tribunal in paragraph no.4 that the Municipality is not in very good financial position. Same can be said today in relation to the same Municipal Council in these matters.

12] In the light of the above, Shri Shelke submits that these workers are willing to waive all monetary benefits of whatsoever nature in relation to their service conditions for the period 2.3.1991 till 1.8.1995 so as to be granted notional regularization with effect from 2.3.1991. With this notional regularization from 2.3.1991, their retiral and pensionary benefits be calculated. Shri Bedre has opposed the said request.

13] Considering the above factors, the oral and documentary evidence on record and the reasons adduced by

- 7 -

the Industrial Court coupled with the fact that 20 years have lapsed from the date of the impugned judgment and this Court had refused interim relief to the Municipal Council, I do not find it fit and proper to cause any interference in the impugned judgment to the extent of granting regularization to 90 employees.

14] However, the request put forth by the Union deserves to be accepted since all these 90 workers have joined employment in between 1985 to 1989. All of them had completed more than two years in service on the date of filing of the complaint, which is 2.3.1991. All of them have waived monetary benefits for the period 2.3.1991 till 1.8.1995.

15] Therefore, the impugned judgment, to the extent of Clause (4) can be modified so as to hold that these benefits of permanency will be granted to these 90 employees from the date of the institution of the complaint 2.3.1991. Each of them will not be entitled for any monetary benefits for the period 2.3.1991 to 1.8.1995. However, their retiral and pensionary benefits shall be computed by keeping in view their date of regularization as being 2.3.1991.

16] The last limb of the arguments of Shri Bedre is in relation to the direction to pay Rs.7,000/- to each of these 90 employees. He frankly submits that the payment of Rs.7,000/- as compensation granted by the Industrial Court to each of the 90 employees is a huge burden on the Municipal Council. The said direction deserves to be set aside as there is no observation by the Industrial Court about the conduct of the Municipal Council which could have warranted imposition of compensation / costs of Rs.7,000/- per worker.

17] Shri Shelke submits that Writ Petition No.693/2000 was filed by the Municipal Council for challenging the decision and order of the Labour Court dated 3.1.1999 passed in Criminal Complaint (ULP) No.13/1997. This Court noted the statement of the Municipal Council that the impugned order has already been complied with and nothing survived in the petition. This petition was, therefore, disposed of as infructuous. Hence, the Municipal Council now cannot turn around and pray for setting aside the direction of payment of compensation. He clarifies that the order dated 3.11.1999 mandated the petitioners to deposit the said

- 9 -

amount before the Labour Court.

18] He further indicates that the Union had preferred Miscellaneous Application (ULP) No.18/1999 before the Industrial Court, which, by order dated 4.11.1999, directed the Municipal Council to deposit compensation amount of Rs.7,000/- per worker in the Court. He, therefore, submits that the statement made before this Court on 1.10.2001 was not complied with. Similarly, the direction of the Industrial Court dated 4.11.1999 was also not complied with. In addition thereto, the statement made before this Court on 1.10.2001 in Writ Petition No.691/2000 was also not complied with by the Municipal Council.

19] I have considered the submissions of the learned Advocates on this issue of compensation, as recorded above. In fact, the Municipal Council has led this Court to believe that the amount of Rs.7,000/- per worker was already deposited. The Industrial Court was also made to believe that its direction would be complied with. So also the direction of the Labour Court dated 3.11.1999 was also not complied with. The Municipal Council has failed to point out circumstances / factors, which would

- 10 -

convince me to set aside the direction of payment of Rs.7,000/- per worker as compensation. The request of the Municipal Council to that effect, therefore, stands rejected.

20] Both these petitions are, therefore, partly allowed in terms of the above order and the modification as caused in Clause (4) of the impugned judgment. So also the Municipal Council shall be bound to implement its resolution dated 2.12.2004 in relation to the 13 employees, who would also be given regularization from 2.3.1991 and shall similarly be deprived of monetary benefits for the said period.

21] Rule is, therefore, made partly absolute in the above terms. There shall be no order as to costs.

**(RAVINDRA V. GHUGE, J.)**