

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6057 OF 2014

1. Sanjay Ramdas Sonawane,
Age-45 years, Occu-Service,
R/o Shivaji Nagar, Dondaicha,
Tal.Sindhkheda, Dist.Dhule,
2. Ratan Rupchand Sapkale,
Age-39 years, Occu-Service,
R/o Ambedkar Chowk, Dondaicha,
Tal.Sindhkheda, Dist.Dhule

PETITIONERS

VERSUS

1. The State of Maharashtra,
Through the Director,
Municipal Administration
Mantralaya Mumbai 400 032.
2. The Regional Director,
Municipal Administration,
(Divisional Commissioner),
Nasik Division, Nasik,
3. The Collector, Dhule
4. The Chief Officer,
Municipal Council, Dondaicha,
Tal.Sindhkheda, Dist.Dhule,
5. The Auditor,
Municipal Council, Dondaicha,
Tal.Sindhkheda, Dist.Dhule,
6. The Municipal Council,
Dondaicha, Tal.Sindhkheda,
Dist.Dhule,
7. Allimodin Husonoddin Shaikh,

Age-44 years, Occu-Service,
R/o Shahada Road, Dalda Chawal,
Dondaicha, Tal.Sindhkheda,
Dist.Dhule

RESPONDENTS

Mr.Shrikant S.Patil, Advocate for the petitioners.
Mr.Milind Patil, Advocate for respondent Nos.4 and 6.
Mr.S.G.Sangle, AGP for respondent Nos. 1 to 3.
Mr.S.P.Brahme, Advocate for respondent No.7.
Respondent No.5 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/09/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. I have heard the learned Advocates for the respective sides for quite some time. Considering the order that I intend to pass in the light of the refusal of the Divisional Commissioner, Nasik in deciding the Revision Application No.1/2013, preferred by the petitioners u/s 318 of the Maharashtra Municipal Councils and Nagar Panchayats Industrial Township Act, 1965, I am not required to advert to all the submissions put forth by the learned Advocates.
3. Grievance of the petitioners is that their promotion orders

dated 16/07/2011 have been cancelled by the District Project Officer, Dhule vide order dated 26/12/2012. For challenging the said order, the petitioners preferred Revision Appl.No.1/2013 in the light of the circular dated 31/12/2003. issued by the Director, Municipal Administration, by which the remedy available is u/s 318 before the Divisional Commissioner / respondent No.2 herein.

4. Complaint (ULP) No.71/2013 has been preferred by respondent No.7 herein praying for the cancellation / setting aside of the orders of promotion dated 16/07/2011 issued to the petitioners and further praying for grant of promotion from 16/07/2011 to the post of "Clerk" with consequential benefits.

5. Mr.Brahme appearing on behalf of respondent No.7, who is the complainant before the Industrial Court at Dhule, submits that prayer clause "23-B" of the complaint would not survive in the light of the cancellation of promotion of the petitioners, who are party to the complaint, by order dated 26/12/2012. Nevertheless, the complaint would be maintainable to the extent of prayer clause 23-A and 23-C.

6. It is apparent from the impugned order that paragraph Nos.1 to

13 are the narration of the various factors, procedure followed and the rival contentions of the litigating sides. Paragraph No.14 as is pointed out appears to be the conclusion of respondent No.2. I find that respondent No.2 has virtually abdicated its powers to decide the Revision Application u/s 318 on the ground that the complaint preferred by respondent No.7 namely Allimodin Husonoddin Shaikh is pending before the Industrial Court at Dhule and hence the Revision Application is not required to be decided.

7. Respondent No.2 has lost site of the fact that the petitioners had invoked Section 318 in the light of the cancellation of their promotions by order dated 16/07/2011. In the light of the same, prayer clause 23-B of the complaint was rendered redundant. In so far as prayer clause 23-C in the complaint was concerned, it is stated by the litigating sides that the decision of the Industrial Court on the said prayer would not in any way impact the result of the Revision Application No.1/2013 preferred by these petitioners.

8. Mr.Patil, learned Advocate for respondent No.4 and 6 and Mr.Brahme, learned Advocate for respondent No.7 have raised several issues while addressing this Court. I do not find it necessary to consider these issues and contentions since a remand of Revision

Application No.1/2013 to respondent No.2 for a decision on its merits would enable these litigating sides to raise all contentions including the contention that the order dated 26/12/2012, cancelling the petitioners' promotions has still not been implemented. The petitioners have enjoyed the benefits of the promotional posts in contra distinction to the order dated 26/12/2012.

9. As such, considering the fact situation as above, this petition is partly allowed. Impugned order dated 13/08/2013 in Revision (Appl.) No.1/2013 is quashed and set aside. Revision Application No.1/2013 is remitted back to respondent No.2 with the following directions :-

- (a) The respondents in the said revision application are at liberty to file their written say and raise such issues as they deem it fit and proper.
- (b) Respondent No.2 shall decide the said revision application after hearing all the sides, by following the procedure laid down in law and on its own merits.
- (c) Needless to state, contentions and objections of the respondents will be dealt with.
- (d) Respondent Nos. 6 and 7 shall prosecute Complaint No.17/2013 to the extent of prayer clause 23-A and 23-C before the Industrial Court at Dhule.
- (e) All contentions of the litigating sides in the said complaint are kept open.
- (f) Revision Application No.1/2013 shall be decided as

expeditiously as possible and preferably on or before 30/01/2016.

10. Considering the requests of the litigating sides, the parties to Revision Application No.1/2013 shall appear before respondent No.2 on 28/09/2015 at 1100 a.m. and thereafter shall abide by the dates of hearing as may be posted by the learned Authority. Formal notices to the litigating sides need not be issued by respondent No.1 / Authority.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)