

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10240 OF 2015

MANAV JEEVAN VIKAS PRATISTHAN,
THROUGH ITS SECRETARY AND ANOTHER
VERSUS

PETITIONERS

THE DIVISIONAL DEPUTY COMMISSIONER
AND OTHERS

RESPONDENTS

Mr.M.V.Ghatge, Advocate for the petitioners.
Mr.K.N.Lokhande, AGP for respondent Nos. 1 and 2.
Mr.R.J.Godbole, Advocate for respondent No.3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/10/2015

PER COURT :

1. I have heard Mr.Ghatge learned Advocate for the petitioners and the learned AGP on behalf of respondent Nos. 1 and 2 and Mr.Godbole, learned Advocate appearing on behalf of the Caveator/ respondent No.3.

2. In the light of the order that I propose to pass, I am not required to advert to all the submissions of the learned Advocates. Suffice it to say, this Court, by its order dated 06/07/2012 in Writ Petition No.4602/2011 involving these parties, had issued certain directions in paragraph Nos. 8 and 9, which are as under :-

“8. In that view of the matter, the impugned order dated 18th April, 2011 passed by the Divisional Social Welfare Officer, Latur Division, Latur in Appeal No.4 of 2010 is quashed and set aside. Appeal No.4 of 2010 is restored to its original file. The Divisional Social Welfare Officer, Latur Division, Latur shall proceed to decide the said appeal in accordance with law within permissible limits and not to travel beyond the scope of appeal. 9. The writ petition is disposed of on the above terms.”

3. The grievance of the petitioners is that despite having filed an appeal on 12/11/2012, which should have been heard and decided together with Appeal No.4/2010 preferred by respondent No.3, the concerned authority / respondent No.1 has kept the appeal of the petitioners pending and has decided Appeal No.4/2010 filed by respondent No.3 by its order dated 13/03/2015.

4. Mr.Ghatge submits that the appeal of respondent No.3 was for seeking releasing of salary and incidental benefits. Per contra, the appeal of the petitioners was for seeking cancellation of the approval granted to respondent No.3.

5. He, therefore, submits that there is a possibility that the pending appeal of the petitioners would lead to a contradictory

judgment vis-a-vis, the impugned order passed. In short, he submits that on the one hand the salary of respondent No.3 is directed to be released by the impugned order and on the other hand if the appeal of the petitioners is allowed thereby cancelling the approval granted to respondent No.3, there would be a conflict between these orders.

6.. Mr.Godbole submits that his appeal was pending from 2010. It was ahead in time and in the stages of hearing. The petitioners preferred their appeal on 12/11/2012. Naturally, the appeal of respondent No.3 was decided by the impugned order. Even if the appeal of the petitioners is allowed, the salary of Respondent no.3 will have to be paid by the petitioners from their own funds.

7. Learned AGP submits that there would be no difficulty to decide the appeal of the petitioners within 3 months as the same is pending from 12/11/2012.

8. In the light of the above, this petition is disposed off with the following directions :-

[a] The impugned order dated 13/03/2015 shall be kept in abeyance till the appeal of the petitioner dated 12/11/2012 is decided by respondent No.1.

- [b] Respondent No.1 shall register the appeal preferred by the petitioners on 12/11/2012 and shall decide the same after hearing all the litigating sides, as expeditiously as possible and preferably on or before 30/01/2016.
- [c] The litigating sides agree to appear before respondent No.1 for facilitating the hearing of the petitioners' appeal on 05/11/2015 at 11.00 a.m. Formal notices need not be issued by respondent No.1.
- [d] The appeal of the petitioners shall be decided on its own merits without being influenced by the order dated 13/03/2015 passed by respondent No.1 in Appeal No.4/2010.
- [e] After the appeal of the petitioners is decided, the litigating sides shall have liberty to resort to such remedy that may be available in Law.

9. No costs.

(RAVINDRA V. GHUGE, J.)