

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5773 OF 2014

WITH

CIVIL APPLICATION NO.2768 OF 2014

Haribhau K. Kedar

.. Petitioner

Versus

The Hon'ble Minister (Chief Minister)

Urban Development Department,

State of Maharashtra and another

.. Respondents

Shri. Sanjay D. Thokade, for the Petitioner.

Shri. S. D. Rayrikar, AGP for the Respondent No.1.

Shri. Vaibhav P. Patankar, for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 18th MARCH, 2015

PC.

1. At the outset the Learned Counsel for the Petitioner seeks deletion of the word "Chief Minister" in the bracketed portion in the cause title. Leave granted. Amendment to be carried out forthwith.

2. The order dated 04.03.2014 passed by the State Government i.e. the Hon'ble Chief Minister, Government of Maharashtra in exercise of the powers conferred by Section 451 of the Bombay Provincial Municipal Corporation Act, 1949, is taken exception to by way of the above Petition. By the said order the issue regarding the dismissal of the Petitioner is

referred back to the competent authority of the Nashik Municipal Corporation as the State Government found that the Commissioner of the Municipal Corporation who had passed the order of dismissal was not vested with the said power. The impugned order dated 04.03.2014 has been passed by the State Government pursuant to the directions which were issued by the Division Bench of this Court (A. S. Oka and Revati Mohite-Dere, JJ) in Writ Petition No.4491 of 2013 by order dated 15.10.2013. It appears that the general body meeting of the Nashik Municipal Corporation is being held today and is in fact is in progress at this moment, according to the Learned Counsel Shri. Vaibhav P. Patankar appearing for the Nashik Municipal Corporation. The issue of the dismissal of the Petitioner is also on the agenda of the said meeting. The Learned Counsel appearing on behalf of the Petitioner has raised various contentions in support of the challenge to the impugned order. However, after arguing for sometime, the Learned Counsel for the Petitioner on instructions of the Petitioner who is personally present in Court seeks withdrawal of the above Petition in view of the fact that the issue is before the general body in its meeting which is being held today. The Learned Counsel further states that the Petitioner has no objection if the general body takes a decision in respect of the issue of the dismissal of the Petitioner one way or the other. However, he states that though the

impugned order has been passed by the State Government on 04.03.2014 for a period of almost a year no decision has been taken by the Municipal Corporation. He therefore prays that in the event a decision is not taken by the Corporation on the said issue today, the Corporation may be directed to take a decision within a particular time frame.

3. In view of the said statement made by Shri. Sanjay D. Thokade the Learned Counsel for the Petitioner, it is not necessary to consider the above Writ Petition on merits. The Petition is accordingly allowed to be withdrawn.

4. In the event the Corporation does not take a decision on the issue of dismissal of the Petitioner today, the Corporation is directed to do the same latest by 30th June, 2015. Needless to say that the contentions of the parties have not been gone into and are kept open for being urged, if need be at the appropriate stage in appropriate proceedings.

5. In view of the leave to amend granted to the Petitioner, the above Civil Application filed by the State for the relief sought therein, does not survive and to accordingly stand disposed of as such. The direction issued to the Corporation vide this order to be communicated by Shri. V. P. Patankar the Learned Counsel appearing for it.

[R.M. SAVANT, J]