

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.98 OF 2015

Suresh Ratanlal Dalod & Anr. ...Petitioners
vs.
State of Maharashtra & Ors. ...Respondents

Mr.Sham V. Walve for the Petitioners
Ms M.P.Thakur, AGP for the respondent No.1
Mr.Shekhar Jagtap and Mr.Akshay Kapadia i/b J.
Shekhar & Co. for respondent No.2 and 3.

CORAM : A.S.OKA, &
V.L.ACHLIYA, JJ.
DATE : OCTOBER 9, 2015

P.C.:

1 Heard the learned counsel for the petitioners and the learned counsel for the respondent Nos.2 and 3. The learned counsel for the respondent Nos.2 and 3 pointed out that the petitioners are Office Bearers of an organization which filed application No.51/2015(WZ) before the National Green Tribunal, Western Zone, Bench at Pune. He pointed out the order dated 27th May 2015 passed by the National Green Tribunal. He urged that the petitioners who are claiming to be the President and Executive President of the applicant in the application No.51 of 2015 have no locus to file the present PIL. He submitted that in any case, no one can insist that while filling in the posts on the establishment of the Municipal Corporation, priority should be given to one particular community.

2 Unless there is prior sanction of the State Government in accordance with sub-section 4 of section 51 of the Maharashtra Municipal Corporations Act, 1949, a Municipal Corporation cannot create new posts on its establishment. On 30th March 2013, a proposal has been submitted by the second respondent Municipal Corporation to the Urban Development Department of the State Government seeking sanction for creation of the additional posts. The resolution dated 4th July 2015 passed by the Standing Committee of the Nasik Municipal Corporation records that the additional 2504 employees are required by the said Corporation for the cleaning purposes. If the Municipal Corporation wants additional posts to be created, the Corporation will have to make a proposal to the State Government. It is obvious that in view of the resolution dated 4th July 2015, the Municipal Corporation will have to submit appropriate proposal to the State Government. It is ultimately for the State Government to decide the proposal submitted by the Municipal Corporation for creation of additional posts. It is ultimately for the State Government to decide whether a particular work should be carried out by the Municipal Corporation by employing the additional staff or through out sourcing.

3 Considering these aspects and considering the order passed by the National Green Tribunal, Western Zone, it is not necessary to entertain this PIL.

4 Suffice it to say that pending proposal for creation of the posts shall be decided by the State Government as expeditiously as possible and preferably within a period of three months from today. If any additional proposal is submitted by the Municipal Corporation to the State Government, the same shall be decided by the State Government within a period of three months from the date of such proposal. We must make it clear that the issue of locus of the petitioners to maintain the PIL is expressly kept open.

5 Subject to what is observed above, the petition is disposed of.

(V.L.ACHLIYA,J.)

(A.S.OKA,J.)