

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1997/2014

Smt. Annapurna Santosh Dixit

...Versus...

The State of Maharashtra, through its Director of Municipal Administration,
Mumbai and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Mohd. Ateeque, Advocate for petitioner
Shri N.S. Khubalkar, AGP for respondent nos.1 to 3
Shri N.L. Jaiswal, Advocate for respondent no.4

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : 15.04.2015

By this petition, the petitioner impugns the order of the Divisional Commissioner, Amravati dated 20.9.2013, rejecting the proposal for regularization of the services of the petitioner with the Municipal Council.

According to the petitioner, since the petitioner was working with the Municipal Council before 10.3.1993 on daily wages in view of the Government Resolution dated 28.9.2000, the services of the petitioner ought to have been regularized. It is stated that the proposal for regularization of the services of the petitioner was sent by the Municipal Council to the Divisional Commissioner in the year 2006 and since the same was not decided, the petitioner had filed a writ petition, seeking a

direction to the State Government to decide the representation of the petitioner. By the impugned order dated 20.9.2013, the representation filed by the petitioner is rejected.

It is stated on behalf of the petitioner that the Divisional Commissioner could not have rejected the proposal on the ground that the petitioner was not working with the Municipal Council since 1.5.2000 and therefore, her proposal could not have been sent for regularization in the year 2006 merely because she was working with the Municipal Council on daily wages before 10.3.1993. It is stated that the Municipal Council could not have sent a fresh proposal to the Divisional Commissioner in 2012, informing him that the petitioner was not in service from 1.5.2000 and that her proposal was mistakenly sent in the year 2006 only because she was working on daily wages before 10.3.1993.

On hearing the learned Counsel for the parties, it appears that the impugned order cannot be interfered with in exercise of the writ jurisdiction. The petitioner had filed a complaint before the Industrial Court under Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 as she was not regularised. The said complaint was dismissed by an order dated 9.2.2011 after holding that the petitioner had failed to prove that the respondents had committed unfair labour practice under the aforesaid Items. The claim of the petitioner for regularization was thus rejected by the Industrial Court by the order dated 9.2.2011. Since the claim of the petitioner was rejected, the petitioner could not have filed a writ petition, seeking regularization of her services. This Court, however, on the only prayer made by the

petitioner for a direction to the respondents to consider and decide her representation, had directed the Divisional Commissioner to decide the representation. By the impugned order, the Divisional Commissioner rightly rejected the representation made by the petitioner as the petitioner was not entitled to regularization of her services. The petitioner was not working with the Municipal Council since 1.5.2000 and hence her proposal could not have been sent to the Divisional Commissioner by the Municipal Council in the year 2006 only because the petitioner was working on daily wages before 10.3.1993. The Divisional Commissioner rightly considered the report of the Chief Executive Officer which clearly showed that the services of the petitioner were terminated on 1.5.2000 and she was not in service after the said date. It would not be possible for this Court to decide, in exercise of the writ jurisdiction whether the petitioner had worked for some time with the Municipal Council after May, 2000, specially when the assertion made by the petitioner in that regard is seriously disputed by the Municipal Council and the Divisional Commissioner.

For the reasons aforesaid, we dispose of the writ petition with no order as to costs.

JUDGE

JUDGE