

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1297/2015

Dnyanada W/o Bhagyaravi Kulkarni.

..Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri R.S.Deshmukh, Advocate for the Petitioner.

Ms.R.P.Gour, AGP for Respondent No.1.

Smt.Manjusha A. Deshpande, Advocate for Respondent Nos.2 to 4.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.11.2016

ORDER :

1] Mr.Deshmukh, learned counsel for the petitioner submits that the petitioner was an employee of the respondent – Corporation. In the departmental enquiry, the petitioner was awarded punishment of deduction of 5% pension. The petitioner filed an appeal before the

Standing Committee of the Corporation. On 16.4.2013, the Standing Committee allowed the appeal and set aside the office order dated 23.1.2013 imposing punishment upon the petitioner. Though the appeal of the present petitioner is allowed on 16.4.2013, the respondents have not implemented the same and are not paying the pension and retiral benefits as per the order of the Standing Committee. The learned counsel submits that after the present petitioner filed the instant writ petition, the respondent nos.2 to 4, with a view to deprive the petitioner of the benefits, have filed a reference u/s 451 of the Maharashtra Provincial Municipal Corporations Act before the State Government. In fact, if such a reference is to be made, the same has to be made immediately. The respondents have approached the State Government after two years and more particularly after issuance of notice in the present writ petition, which is not permissible. This shows that the respondent nos.2 to 4 have approached the State Government in a pre-determined manner, not to award the benefits of the order of the Standing Committee to the petitioner. The same is afterthought. The petitioner is a senior citizen.

2] Smt.M.A.Deshpande, learned counsel for the respondent nos.2 to 4 submits that the reference is pending before the Government u/s 451 of the Maharashtra Provincial Municipal Corporations Act and the same is required to be decided. The petitioner is being paid the provisional pension.

3] Mr.Deshmukh, the learned counsel for the petitioner, relies on the judgment delivered by this Court in Writ Petition No.4146/2014 dated 8.5.2015.

4] We have considered the submissions canvassed by the learned counsel for the parties.

5] It is not in dispute that the Corporation has approached the State Government u/s 451 of the Maharashtra Provincial Municipal Corporations Act. It is more than one and half years, the said reference is pending. The petitioner can put forth all the grounds agitated by her, and as argued, before the State Government either in person or through her Advocate.

6] Considering the fact that the reference is pending before the State Government for more than one and half years and further the fact that the petitioner is a senior citizen, we pass the following order.

O R D E R

I] The State Government shall decide the reference filed by the respondent nos.2 to 4 u/s 451 of the Maharashtra Provincial Municipal Corporations Act challenging the order of the Standing Committee expeditiously and preferably within a period of three months.

II] The petitioner may appear before the State Government on 5.12.2016 and represent either herself before the State Government or through her Advocate.

III] In case the reference of the respondent nos.2 to 4 is negatived by the State Government, then the respondent nos.2 to 4 shall pay all the retiral benefits to the petitioner alongwith pension as per the order of the Standing Committee within a period of two months from the date of order of the State Government in the reference u/s 451.

IV] Needless to state, further avenue is open to the parties in case the State

Government decides the reference in either way.

V] Writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)