

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

WRIT PETITION NO. 1972 OF 2016

PRAKASH EKNATH KOLI

VERSUS

THE MUNICIPAL COUNCIL BHUSAWAL THROUGH ITS
CHIEF OFFICER AND OTHERS

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Advocate for Petitioners : Mr. Sant Kishor C.
AGP for Respondents/State: Mr. U.H. Bhogle.

...

CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: FEBRUARY 22, 2016

...

Heard.

2 This petition takes exception to the order dated 3rd February, 2016 passed by the Chief Officer, Municipal Council, Bhusawal - respondent No.1. The learned Counsel for the petitioner invited our attention to the pleadings in the petition, annexures thereto and in particular, Exh.D at page 26 and submits that these documents would unequivocally indicate that, the petitioner is discharging his duties as Tax Superintendent and therefore, transfer of the

petitioner from the post of Tax Superintendent to the post of Clerk amounts to reversion. He further submits that the petitioner has filed Writ Petition No.5427 of 2012 wherein directions were issued to the District Collector to decide the proceedings u/s 308 of the Maharashtra Municipal Council, Nagar Panchayat and Industrial Township Act, 1965 on priority basis in respect of Resolution No.30 dated 14th June, 2011 expeditiously, on its own merits after hearing the parties concerned, within four months from the date of order. The learned Counsel submits that, till the date the Collector has not adhered to the directions issued by this Court by order dated 15th December, 2014 in Writ Petition No.5427 of 2012 and the Chief Officer, Municipal Council, Bhusawal – respondent No.1 has passed the impugned order, which amounts to demotion / reversion of the petitioner inasmuch as, the petitioner came to be transferred from the post of Tax Superintendent to the post of Clerk (Recovery). Therefore, he submits that the petition deserves consideration.

In the alternate, he submits that, if this Court is not inclined to entertain this petition, at least, the Collector, Jalgaon may be directed to decide the proceedings u/s 308 of the Maharashtra Municipal Council, Nagar Panchayat and Industrial Township Act, 1965 on priority basis in respect of

Resolution No.30 dated 14th June, 2011 expeditiously, on its own merits, as directed by this Court by order dated 15th December, 2014 in Writ Petition No.5427 of 2012.

3 We have heard learned Counsel for the petitioner. Perused the pleadings in the petition, annexures thereto and the contents of the impugned order. It appears that, the petitioner was promoted on the post of Tax Superintendent. However, the said Resolution by which the petitioner was promoted on the post of Tax Superintendent, has been stayed by the District Collector, Jalgaon and in pursuance to the said stay granted by the Collector, the petitioner was reverted to his original post.

4 In that view of the matter, we are unable to persuade ourselves on the basis of the contents of the documents which are placed on record at Exh.B and D only, to infer that, as a matter of fact, the petitioner was rendering services as Tax Superintendent and the impugned order transferring him from the said post to the post of Clerk (Recovery) ought not to have been passed by the respondent No.1 – Chief Officer.

So far as the contention of the Counsel for the petitioner that, though this Court issued

directions to the Collector to dispose of the proceedings u/s 308 of the said Act in respect of Resolution No.30, the said order has not been complied with and no decision is taken by the Collector, is concerned, the petitioner can resort to an appropriate proceeding in respect of non adherence to the said directions.

5 For the reasons aforesaid, we do not find any merit in the petition. Petition stands rejected.

(P.R. BORA, J)

(S.S. SHINDE, J)

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