

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5575 OF 2016**

Navi Mumbai Mahanagarpalika Karmchari Sena

..Petitioner

Vs.

Navi Mumbai Mahanagarpalika & Anr

..Respondents

Mr. Sanjay Thokade for the Petitioner

Mr. Sandeep Marne for the Respondent Nos.1 and 2

CORAM : R. M. SAVANT, J.

DATE : 17th OCTOBER, 2016

P.C.

1 The order dated 20-4-2016 passed by the Learned Member of the Industrial Court Thane dismissing the Revision filed by the Petitioner being Revision ULP No.97 of 2015 and thereby confirming the order dated 19-11-2015 passed by the Learned Judge of the 3rd Labour Court, Thane, rejecting the application Exhibit U-2 filed by the Petitioner for interim relief is taken exception to by way of the above Petition.

2 The Complaint in question being Complaint ULP No.121 of 2013 has been filed by the Petitioner espousing the cause of its members who have been appointed on contract basis by the Respondent Municipal Corporation. In the said Complaint, the Petitioner filed the application Exhibit U-2 seeking a direction against the Respondent Corporation not to terminate the services of its members not to implement the policy of outsourcing in case of Sub

Sanitary Inspector and Multi Purpose Workers and pay to the said workers 90% of the wages if their services are not utilised till the decision in the Complaint. Having regard to the fact that the said workers were appointed on contract basis and not against any sanctioned posts or after following the due process of recruitment, the Learned Judge of the Labour Court by order dated 19-11-2015 rejected the said application Exhibit U-2. The Industrial Court reiterated the reasons mentioned by the Labour Court for rejecting the application and has also dismissed the Revision on the same ground by the impugned order dated 20-4-2016.

3 On behalf of the Respondent No.1 an affidavit in reply has been filed by one Mr. Suhas Shinde, the Deputy Municipal Commissioner, Administration. In the said affidavit in paragraph 9 it is stated that by virtue of the Government Resolution dated 22-4-2016, 1085 posts in the Health Department of the Respondent No.1 have been created which includes 74 post of Multi Purpose Workers. It is further stated that the Respondent No.1 is in the process of initiating the selection process for filling up the said 74 posts of Multi Purpose Workers (Malaria) and that such of the members of the Petitioner Union who are eligible to apply for regular selection will be considered in such selection process, if they apply. It is further stated that the Respondent No.1 has a right to replace the members of the Petitioner Union with regularly selected candidates. It is lastly stated that the members of the

Petitioner Union cannot demand that their services should be continued and regularly selected candidates should not be appointed.

4 The Learned Counsel appearing on behalf of the Petitioner makes a statement that the Petitioner has no objection to the regularly selected candidates replacing the members of the Petitioner Union. Statement accepted. In view thereof the impugned order is not interfered with. Needless to state that the Complaint in question being Complaint ULP No.121 of 2013 as also Complaint ULP No.202 of 2013 pending before the Industrial Court would be tried on its own merits and in accordance with law uninfluenced by the aforesaid fact.

5 With the aforesaid observations, the Writ Petition is disposed of.

[R.M.SAVANT, J]