

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2641 OF 2016**

Sunil Laxman Yadav	}	Petitioner
versus		
Municipal Corporation of	}	
Greater Mumbai and Anr.	}	Respondent

Mr. Mihir Desai – Senior Advocate with
Ms. Devyani Kulkarni for the petitioner.

Mr.H.C.Pimple for the respondent (BMC).

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- DECEMBER 16, 2016**

P.C. :-

1. After hearing both sides, we are of the opinion that the present proposals of the Municipal Corporation, as duly approved by the Superiors, ensure that the petitioner can proceed on leave.

2. Mr. Desai, learned senior counsel appearing for the petitioner would submit that the petitioner has been sanctioned, even by the latest order and decision, a study leave. Any order passed by this court disposing of the writ petition should not go to the detriment of the petitioner and his interest, particularly with regard to availment of leave and salary.

3. We have perused the latest communication from the Municipal Corporation and particularly the minutes of the High Power Committee meeting. The proposals have been scrutinised

and verified at every level, including up to the Deputy Municipal Commissioner. The Deputy Municipal Commissioner (Solid Waste Management) of the Municipal Corporation has placed before the court the final decision, under which, the petitioner can avail of 142 days Earned Leave, Half Pay Leave of 170 days and thereafter the rest of the duration would be Leave Without Pay. Meaning thereby that absence would be treated as Leave Without Pay. This, in our opinion, would enable the petitioner to pursue his P. H. D. course. However, we do not express any opinion with regard to the legality and validity of this decision of the Municipal Corporation, particularly on the point of grant of leave and whether the decision taken amounts to sanctioning a study leave or otherwise. All contentions with regard thereto are kept open and for being raised at an appropriate stage and in appropriate proceedings. We dispose of the writ petition by taking the decision of the Municipal Corporation on record. It is taken on record and marked as 'X' for identification.

4. We allow the petitioner to avail the leave from 1st January, 2017. He shall be relieved from the duty after the duty hours of 31st December, 2016.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)