

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

Writ Petition No. 5371 of 2015

Abdul Jalil s/o Abdul Raheman Sheikh

Vs.

State of Maharashtra through its Secretary, Mumbai & 3 others.

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

Court's or Judge's orders.

Mr. A.N. Ansari, counsel for petitioner.

Mrs. Hiwase, AGP for respondent nos. 1 to 3.

Mr. Dhattrak, counsel for respondent no.4.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.**

DATE : 4th MAY, 2016.

Heard for some time. Learned AGP is seeking time to obtain instructions from respondent nos. 1 and 2. This Court has issued notice in the matter 19.11.2015 by reasoned order.

Effort of Advocate Ansari is to demonstrate that controversy is concluded by judgment in W.P. No. 3561/2014. We find that the W.P. No. 3097/1998 was partly allowed and relief of permanency was maintained. In the present matter, the learned Single has, on 10.2.2006 only maintained direction to regularize but grant of permanency is made dependent upon the receipt of sanction from the Director of Municipal Administrations in terms of Section 76 of the Maharashtra (Municipal Councils), (Nagar Panchayats and Industrial Townships) Act, 1965. This appears to be consistent with law

expounded by Hon'ble Apex Court in **AIR 2006 SC 1806** (Secretary, State of Karnataka Vs. Umadevi and others).

As yet, the permanent post has not been sanctioned and in absence of vacancy, respondent no. 4 is not in position to accommodate petitioner against such sanctioned post.

Shri Dhatrak appearing for respondent no.4 points out that proposal for creation of a permanent post is forwarded to respondent no. 2 way back in 2012. It is still not decided.

Learned AGP points out that she is still awaiting instructions.

Perusal of affidavit filed by respondent no.4 shows that such proposal has been forwarded on 18.2.2010 to the office of respondent no. 2 for creation of post with a view to absorb petitioner in that sanctioned post.

In view of this statement made on affidavit, we direct respondent no.2 to expedite the process and to complete it within period of three months from the date of communication of this order to it.

With liberty to petitioner to approach again if the post is not sanctioned, we dispose of writ petition. No costs.

JUDGE

JUDGE