

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 17 OF 2017
IN WP/23/2014 WITH CP/18/2017 IN WP/3690/2014 WITH
CP/19/2017 IN WP/17/2014 WITH CP/20/2017 IN WP/3565/2014
WITH CP/21/2017 IN WP/3399/2014 WITH CP/22/2017 IN
WP/3563/2014 WITH CP/23/2017 IN WP/18/2014 WITH CP/24/2017
IN WP/3564/2014 WITH CP/25/2017 IN WP/19/2014 WITH
CP/26/2017 IN WP/25/2014 WITH CP/27/2017 IN WP/24/2014 WITH
CP/28/2017 IN WP/21/2014 WITH CP/29/2017 IN WP/20/2014 WITH
CP/30/2017 IN WP/3384/2014 WITH CP/31/2017 IN WP/22/2014

VAISHALI SAHEBRAO ANANDKAR AND OTHERS
VERSUS
DILIP B GAVDE AND ANOTHER

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Advocate for Petitioners : Shri Barde Parag Vijay.
Advocate for Respondent 1 : Shri V.S.Bedre.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th February, 2017

Per Court:

1 While issuing the notice on 17.01.2017, I had observed as
under:-

"1 *This Court, by it's judgment dated 16.11.2015 delivered in Writ Petition No.17/2014 and group of petitions, has issued certain directions to the Respondents under paragraph 22. For the present, relevant directions set out in paragraph 22(c), 22(d) and 22(e) are reproduced as under:-*

"22(c) The petitioner shall prepare individual proposals of the respondent/ employees indicating their service details along with the information as to whether, a post for the nature of duties performed by the said

employee, is vacant or not. These proposals shall be forwarded to respondent No.2 within a period of 3 (three) months from today.

22(d) Respondent No.2, upon receipt of the said proposals shall take into account the directions of the Industrial Court and the observations of this Court and accordingly accord its approval for regularizing the services of the respondents/ employees within a period of 4 (four) months.

22(e) The respondents/ employees shall not be terminated by the petitioner only on the ground that their proposals are pending. This protection shall not include acts of misconduct/ disciplinary action.”

2 In all the above matters, the Ahmednagar Municipal Corporation had appeared through the Municipal Commissioner.

3 It is solemnly submitted by the Petitioners that the direction under clause 22(c) has not been complied with and as such, Respondent No.2 is yet to receive the proposals from Respondent No.1. Shri Barde, therefore, submits that as Respondent No.1 has not complied with the direction under clause 22(c), he is guilty of disobedience.

4 In the light of the above, issue notice under the Contempt of Courts Act to Respondent No.1 (Dilip B. Gavade), Commissioner, Ahmednagar Municipal Corporation, returnable on 08.02.2017. He shall show cause as to why the action under the Contempt of Courts Act should not be initiated against him. The affidavit in reply by Respondent No.1 shall be filed prior to 08.02.2017.

5 On request, Humdast granted."

2 Though the notice is not served on the Respondents, Shri Bedre, learned Advocate, has fairly appeared on instructions from

Respondent No.1. He tendered a copy of the communication dated 21.01.2017 addressed to the Secretary, Urban Development Department, Maharashtra State, Mantralaya, Mumbai-32. The same is taken on record and marked as Exhibit X for identification.

3 Shri Bedre submits that the grievance of the Petitioners has been addressed as the proposals have been forwarded to the State Government. He submits that the Respondent/ Municipal Corporation is apologetic that the proposals could not be submitted within the time frame as directed by this Court in its judgment dated 16.11.2015.

4 Shri Barde, learned Advocate for the Petitioners, has voiced two grievances. Firstly that, the daily wages as per the minimum rates of wages prescribed, have to be paid and the Municipal Corporation is not doing so. Secondly, he points out from page 3 of Exhibit X, that there are certain posts available and vacant and the claims of the Petitioners along with all other similarly situated employees could be considered for absorption based on their seniority.

5 There can be no dispute that the rates of daily wages prescribed by law are to be paid to the daily wagers and it is expected that the Municipal Corporation will do the needful.

6 Insofar as the proposals and the available vacant permanent posts are concerned, there is no reason to believe that the Municipal Corporation and/or the State Government would ignore the claims of such persons, who as per their seniority, would be entitled to the available permanent vacant posts. The competent authority can, therefore, take this decision while deciding the proposals and can grant regularization based on seniority considering the nature of work and posts available. Considering that the competent authority has been granted four months to decide the proposals upon its receipt, it is expected that the said direction would be complied with.

7 In the light of the above, these Contempt Petitions are disposed of.

kps

(RAVINDRA V. GHUGE, J.)