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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3405 OF 2017**

Mangala Narayan More

.... Petitioner.

V/s

Kalyan Dombivali Municipal
Corporation & Others

.... Respondents.

Mr. N.V. Bandiwadekar i/b Mr. M.G. Bagkar, Advocates for the
Petitioner.

Mr. A.S. Rao, Advocate for Respondent Nos. 1 to 3.

**CORAM: B. R. GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE: 5th October, 2017

P.C.:-

1] Rule. Rule is made returnable forthwith. Respondents waive
service. Heard, by consent of parties.

2] The Petition challenges the Order dated 17/01/2017 passed by
the Respondent – Corporation, thereby terminating the services of the
Petitioner.

3] Brief facts, giving rise to the present Petition are as under:-

4] Petitioner came to be appointed as Assistant Teacher vide order dated 10th October, 1984. It appears that the Petitioner was appointed against the post reserved for Scheduled Tribe. It further appears that vide notice dated 05/11/2016, the Respondent – Corporation directed the candidates, who were appointed against the seats reserved, to submit, either a Caste Validity Certificate or the proof of submitting an application to the Caste Scrutiny committee, on line.

5] It is the contention of the Petitioner that the notice was received by the Petitioner on 22/11/2016. Petitioner, accordingly, submitted her on line form on 27/12/2016. It was also communicated to the Respondent – Corporation on 28/12/2016. However, by the impugned order dated 17/01/2017, services of the Petitioner stood terminated.

6] Mr. Rao, learned Counsel appearing on behalf of the Respondent – Corporation, submits that in view of Clause (2) of the Government Resolution dated 18/05/2013, since the Petitioner had failed to satisfy that she had taken steps for getting her claim validated within a period of one month from the notice, the Respondent – Corporation was fully justified in passing the order.

7] The purpose of Government Resolution is to ensure that candidates, who were appointed against the reserved posts, should not enjoy the reserved posts for years together, without getting their

claims validated. In the present case, though the Petitioner is appointed in 1984, the notice is given after 22 years. Perusal of the material placed on record itself, would reveal that how serious the Corporation was to ensure compliance of the Government Resolution. When the Government Resolution is of 2013, the Corporation woke up from its slumber in 2016 and issued notice. We fail to understand that when Corporation itself has chosen to act on the said Government Resolution after a period of three years, why the Corporation could not have condoned the five days' delay on the part of the Petitioner for complying the notice issued by the Corporation. It is a different matter that, according to the Petitioner, notice itself was served upon her on 22/11/2016.

8] We find that on account of such a short delay in complying with the directions issued in the notice, drastic action of termination was not warranted.

9] In the result, Petition is allowed. The order of termination is quashed and set aside. Petitioner is directed to be reinstated with continuity in service and back-wages. Petitioner shall be paid regular salary from the month of October, 2017 and the arrears be cleared within a period of three months from today. Rule is made absolute accordingly with no order as to costs.

(SANDEEP K. SHINDE, J.)

(B. R. GAVAI, J.)