

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2786 OF 2005

Shri Bhanudas Rambhau Barve ... Petitioner.

V/s.

Thane Zilla Parishad, Thane & Anr. ... Respondents.

Mr. N. V. Bandiwadekar, Advocate for the Petitioner.

Mr. S. P. Thorat, Advocate for Respondent Nos.1 & 2.

**CORAM : ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : 06 APRIL, 2017

ORDER :

1 This matter is on the final hearing board.

2 We have heard the learned counsel appearing for the respective sides and have gone through the petition paper book with their assistance.

3 The prayer put-forth by the petitioner in this petition in terms of prayer clause 16(b) reads as under :

“b) By a suitable Writ, order or direction, this Hon'ble Court be pleased to quash and set aside the impugned order dated 15.04.2005 (Exhibit 'H') issued by the Respondent No. 2 under which the

Petitioner is sought to be reverted from the post of Junior Engineer (Electrical) to the post of Electrician, with further direction to recover an amount of Rs. 74,991/- from the Petitioner.”

4 The learned counsel for the Respondent - Thane Zilla Parishad is unable to point out that the impugned order dated 15.04.2005, reverting the petitioner from the post of Junior Engineer (Electrical) to the post of Electrician, thereby resulting in a lower revision of his pay-scale, has been passed after hearing the petitioner. The record reveals that the impugned order of reversion has been passed without giving any opportunity of hearing to the petitioner, much-less a fair or a reasonable opportunity.

5 Considering the above, we do not find that the impugned order could be sustained which is passed in non-observance of the principles of natural justice.

6 By an interim order of this court dated 20.06.2005, the recovery sought by the Respondent-Zilla Parishad by the impugned order dated 15.04.2005, has been stayed. Subsequent thereto, by an order dated 25.07.2005, this court has granted interim relief to the petitioner in terms of prayer clause (c), after admitting the petition. Prayer clause 16(c) reads as under :

“b) Pending the hearing and final disposal of this petition, the execution, operation and implementation of the impugned order dated 15.04.2005 (Exhibit 'H') issued by the Respondent No. 2 be kindly stayed.”

7 In the light of the above, this petition is partly allowed. The impugned order dated 15.04.2005 is quashed and set aside and the Respondent is granted liberty to issue an appropriate notice to the petitioner prior to passing any order with regard to his reversion and recovery of the amount. The Respondent can accordingly issue the notice within a period of eight weeks from today and after giving a reasonable opportunity of hearing to the petitioner by offering him the liberty of submitting a written explanation, the Respondents would be at liberty to pass an appropriate order.

8 In the event, the said order is prejudicial to the interest of the petitioner, the same would come into effect after three weeks from the date it is communicated to the petitioner.

9 Rule is made partly absolute accordingly.

(RAVINDRA V. GHUGE,J.)

(ANOOP V. MOHTA J.)

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