

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4203 OF 2010

Chief Executive Officer	]	
Ratnagiri Zilla Parishad,	]	Petitioner
Vs.		
Shrikant Raghunath Prabhavale	]	Respondent

.....
 Mr. Shashank Mangle, for petitioner.
 Mr. Bhatkar, for respondent.

CORAM : R.G. KETKAR, J.

DATE : 3rd AUGUST, 2017.

P.C.

Heard Mr. Mangle, learned Counsel for the petitioner and Mr. Bhatkar, learned Counsel for the respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner/Chief Executive Officer, Zilla Parishad, Ratnagiri has challenged the judgment and order dated 19th August, 2009 passed by the learned Member, Industrial Court, Kolhapur [for short 'Tribunal'] in Revision Application [U.L.P] No. 2 of 2007. By that order, the Tribunal allowed the Revision Application filed by the respondent herein u/s 44 of the Maharashtra Recognition Trade Union and Prevention of Unfair Labour Practices Act, 1971 [for short 'Act'] and set aside the order dated 18th December, 2006 passed by the learned Judge, Labour

Court, Ratnagiri in Complaint [U.L.P] No. 21 of 1997. The Tribunal allowed the complaint filed by the respondent u/s 28 r/w Items 1 (a), (b), (d), (f) and (g) of Schedule-IV of the Act by setting aside the order of termination and directed the petitioner herein to continue the respondent in the employment.

3. After hearing both the sides by order dated 26th July, 2010, this Court admitted Writ Petition by issuing Rule. After recording that respondent has been continued in service during pendency of the Revision Application and that he is still continuing in service, this Court did not stay the impugned order.

4. The matter was heard on 13th July, 2017. Mr. Bhatkar submitted that on 7th July, 2011, General Body of Zilla Parishad Ratnagiri had passed resolution for withdrawing Writ Petition. He was directed to file affidavit placing on record General Body Resolution dated 7th July, 2011. Accordingly, respondent has filed affidavit dated 18th July, 2017 enclosing therewith proceedings of the General Body Meeting dated 7th July, 2011. He submitted that inadvertently, affidavit is filed in Writ Petition No. 14358 of 2016.

5. Mr. Mangle states that Mr. Mohite, Junior Desk Officer is present in the Court. He is not in a position to make a positive statement as to whether General Body Resolution dated 7th July, 2011 was subsequently rescinded. No reply is filed controverting the statements made in the affidavit of the respondent dated 18th July, 2017.

6. After perusing the affidavit filed by the respondent on 18th July, 2017 as also Minutes of the General Body Meeting dated 7th July, 2011, it is evident that unanimous Resolution is passed by the General Body for withdrawing the Writ Petition.

7. Mr. Mangle states that responsible officer Mr. A.A. Athalye, District Health Officer was directed to remain present. However, he could not remain present as he is hospitalized.

8. In view of Resolution No. 744 passed by the General Body of the petitioner on 7th July, 2011, nothing survives in this Petition and the same is accordingly disposed of. Rule is discharged with no order as to costs. Liberty is reserved to the petitioner to file Review Petition in case Resolution No. 744 dated 7th July, 2011 is rescinded by the petitioner prior to passing of this order.

[R.G. KETKAR, J.]