

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

WRIT PETITION NO. 6012 OF 2016

Surendra Bhaskar Bhoir	... Petitioner
V/s.	
Bhiwandi Nizampura City Municipal Corporation	... Respondent

Mr. A. B. Tajane for the Petitioner.
Mr. N.R. Bubna for the Respondent Nos. 1 and 2.

CORAM : K. K. TATED, J.
DATED : 22/02/2017

P.C.:

. Heard learned Counsel for the parties.

2 The learned Counsel for the petitioner submits that he received instructions from his client to engage the Senior Counsel. Hence, he requires some time. On his request, office is directed to place the matter on board on 15.03.2017. At this stage the learned Counsel for the petitioner submits that he is ready to argue the matter on its own merits. Same is allowed.

3 By this petition under Articles 226 & 227 of Constitution of India, the Petitioner is challenging the interim order dated 27.04.2016 passed by Industrial Court, Thane below Exh. U-2 in Complaint (ULP) No. 251 of 2014 rejecting petitioner's application for restraining the Respondent from withdrawing or removing the petitioner from the post of Surveyor-cum-Building Inspector.

4 It is the case of the petitioner that, he was working with the Respondent as clerk. In the year 2006, he passed examination for the post of Building Supervisor. Thereafter, the Respondent issued advertisement in Newspaper on 26.08.2011 for appointment of Building Supervisor. He submits that petitioner being from backward class, he applied for the said post. He submits that Respondent issued appointment letter in favour of petitioner as Surveyor-cum-Building Inspector. He joined the said post and started working. Thereafter, the Respondent taken decision to remove the petitioner from the said post on the ground that, on the date of applying for the post, he was more than 38 years old.

5 The learned Counsel for the Petitioner submits that Government by its GR dated 01.12.2003 relaxed the age limitation for the backward class up to 45 to 50 years. He submits that when the petitioner moved before the Industrial Court for ad-interim relief, the same was granted on 24.09.2014. He submits that since then the petitioner is in service with the Respondent and working as Surveyor-cum-Building Inspector. He submits that during the pendency of the present Writ Petition this Hon'ble Court continued the ad-interim relief granted by the Industrial Court.

6 The learned Counsel for the Respondent vehemently opposed the granting of any ad-interim relief in favour of the petitioner. He submits that admittedly on the basis of advertisement the petitioner was more than 38 years old. Therefore, he was not entitled for appointment as Surveyor-cum-Building Inspector. Therefore, there is no question of

entertaining the present Writ Petition and same is required to be rejected with costs.

7 It is to be noted that in the present proceeding, the petitioner is working with the respondent as a surveyor-cum-building inspector since the date of appointment. Even, ad-interim relief granted by the Industrial Court is continued by this Court during the pendency of the Writ Petition.

8 Considering the fact that petitioner is in service and he is working with the Respondent, in the interest of justice, the hearing of complaint filed by the petitioner before the Industrial Court is required to be decided as early as possible.

9 Hence, following order is passed:

a) Hearing of Complaint (ULP) No. 251 of 2014 pending before the Industrial Court, Maharashtra at Thane is expedited.

b) The Industrial Court to decide the Complaint (ULP) No. 251 of 2014 as early as possible, but in any case, on or before 30.06.2017.

c) Till the decision of Complaint (ULP) No. 251 of 2014, ad-interim relief granted by the Industrial Court on 24.09.2014 to continue subject to the outcome of the Complaint.

d) Writ Petition stands disposed of accordingly.

(K.K.TATED, J.)