

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO.979 OF 2015

AND

CIVIL APPLICATION (CAW) NO.514 OF 2016

AND

PURSIS ST. NO. 3026 OF 2017

IN

WRIT PETITION NO.1955 OF 2014

(CITY OF NAGPUR MUNICIPAL CORPORATION & ANR...VS..RASHTRIYA NAGPUR CORPORATION
 EMPLOYEES ASSOCIATION & OTHERS.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri S.N.Bhattad, Advocate for Petitioners.
 Shri M.V.Samarth, Advocate for Respondent Nos.1 to 3.
 Shri Neeraj Patil, A.G.P. for Respondent No.24.

CORAM : Z.A.HAQ, J.

DATED : MARCH 10, 2017.

Heard.

The dispute in this petition is regarding the
 criteria to be adopted for filling up the posts of sub-officers in
 the Fire Department of Nagpur Municipal Corporation.

2. These applications are filed by respondent No.1
 and 2 to 9, respectively for modification of order dated 11th
 December, 2014 and for issuance of appropriate directions to
 respondent No.24-State of Maharashtra.

3. By the order passed on 11th December, 2014 the
 State Government was called upon to file its reply. On 18th

July, 2016, when the matter was taken up for hearing, a grievance was made by the respondent Nos. 2 to 9 that the posts in question are lying vacant. The learned advocate for the Nagpur Municipal Corporation submitted that the Draft Rules regulating the services of the employees working in Fire Department are prepared by the Municipal Corporation and submitted to the State Government for its approval and the matter was pending with the State Government.

4. Considering the grievance made by the respondent Nos. 2 to 9 and the submission made on behalf of the Municipal Corporation, the State Government was directed to take decision in the matter within one month from 18th July, 2016. When the matter was taken up for hearing on 29th August, 2016, it was pointed out that Director of Maharashtra State Fire Services is necessary party and therefore, the petitioners sought leave to implead him. By the order passed on 29th August, 2016, the petitioners were permitted to implead Director, Maharashtra State Fire Services as the respondent and the added respondent was directed to file affidavit till 15th September, 2016 explaining the delay on his part in giving opinion/ recommendations to the State Government regarding approval to the Draft Rules sent to him by the State Government on 25th April, 2016.

5. The Director, Maharashtra State Fire Services had not filed any affidavit till 3rd March, 2017 and therefore, this Court passed an order recording that if the affidavit is not filed by him till 8th March, 2017, he shall remain present before this Court on 10th March, 2017.

6. The respondent No.25-Director of Fire Services, State of Maharashtra has filed an affidavit sworn on 9th March, 2017, stating that he has sent "New Draft Rules and Regulations for Fire Services" applicable to all Municipal Corporations in Class A, B, C and D" to the Government of Maharashtra on 17th September, 2016. There is no explanation why further action is not taken on these draft rules.

7. The manner in which the things are moving shows that there is no earnest desire on the part of the State Government and the Director, Maharashtra State Fire Services to finalize and enforce the Rules. The State Government and the Directorate, Maharashtra State Fire Services may move as per their pace, however, the posts which are lying vacant since decades cannot be permitted to be unoccupied. The posts are required to be manned by the competent persons to meet the exigencies.

In this situation, I have no option but to pass the following order :

- i) Till the Rules are finalized by the State Government and the Directorate of the Maharashtra State Fire Services and they are enforced, the Nagpur Municipal Corporation is permitted to fill up the posts in Fire Department in terms of Resolution No. 253, dated 19th April, 2016 referred in the communication sent by the

Commissioner of Nagpur Municipal Corporation to the Secretary, Urban Development Department, Mumbai on 16th January, 2017.

- ii) The interim orders passed in this writ petition earlier are modified accordingly.
- iii) The Nagpur Municipal Corporation shall fill up the posts as per the above directions within two weeks.
- iv) In the appointment orders/ promotion orders which may be issued by the Nagpur Municipal Corporation it shall be clarified that this is an interim arrangement and subject to further orders to be passed in this petition.
- v) After the Rules are enforced, the parties shall approach this Court immediately for reconsideration of the matter.

Civil Application Nos. 979 of 2015 and 514 of 2016 are disposed in the above terms and Pursis Stamp No. 3026 of 2017 is filed.

JUDGE