

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4898 OF 2016

Vijaykumar Shantaram Bhamre .. Petitioner
Versus
State of Maharashtra & ors .. Respondents

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Mr.G.S.Godbole with Mr.Sameet Kothari i/b Ashish Agarkar
and Asna Patel for the petitioner.

Mr.B.V.Samant, AGP for the respondent nos.1 to 6.

Mr.A.G. Damle, Sr Counsel with Ms.Swati Sagvekar for
respondent no.7.

**CORAM: S.C. DHARMADHIKARI &
SMT.BHARATI H.DANGRE,JJ.**

DATED : 16th FEBRUARY, 2018

P.C :-

1 On the earlier occasion, Mr.Godbole, learned
counsel appearing for the petitioner argued this petition, but
during the course of the arguments, we indicated to him that
no relief can be granted in writ jurisdiction, particularly

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because of the stand taken by both the State Government as also the private respondent no.7 in the affidavits filed in reply and which was purported to be controverted by petitioner by filing a rejoinder.

2 Once these rival contentions raised a factual dispute, we had indicated to Mr.Godbole that we are not inclined to grant any relief in the writ jurisdiction. At that time, Mr.Godbole sought time to take instructions from the petitioner and particularly in writing on the withdrawal of the petition. Today, the petitioner's Advocate on record tenders an affidavit in which it is stated that written instructions have been given by the petitioner to the Advocate to withdraw this petition.

3 Mr.Damle, learned Senior Counsel appearing for the respondent no.7 raised an objection to such an affidavit being taken on record and he says that it has a potential of being misused.

4 We take this affidavit and place it on record of the petition only to protect the interest of the Advocates. We do not wish to embarrass the Advocates when they seek leave to withdraw the Writ Petition and particularly because later on the litigants complaint that no instructions of this nature were given to them nor were they ever sought.

5 That is why for that reason alone, the affidavit is taken on record based on the written instructions and that affidavit, leave to withdraw the writ petition is granted with liberty to adopt proper proceedings, but we clarify that we have not expressed any opinion on the maintainability of such proceedings or the merits of the matter.

6 Petition stands disposed of in the above terms.

(SMT.BHARATI H. DANGRE,J)

(S.C.DHARMADHIKARI,J)