

*rrpillai***IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9300 OF 2017**

City & Industrial Development Corporation ... Petitioners
and Ors.

vs.

Maruti Dharmaji Patil & Others ... Respondents

WRIT PETITION NO. 12571 OF 2017

Maruti Dharmaji Patil & Others ... Petitioners

vs.

City & Industrial Development Corporation ... Respondents
and Ors.

.....

Mr. Avinash K. Jalisatgi a/w. Mr. Amol B. Desai for the Petitioner in
WP/12571/2017 and for Respondent nos. 1 & 2A to 2M in WP/9300/2017.

Mr. Yogendra Pendse for Respondent in WP/12571/2017 and for Petitioner in
WP/9300/2017.

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CORAM : A.K. MENON, J.

DATE : 5th FEBRUARY, 2018

P. C.

1. These two petitions assail a common order dated 16th June, 2017 passed in Complaint (ULP) No. 09 of 2017. The complaint was filed under the MRTP & PULP Act, 1971 by the original complainants who are respondent in Writ Petition No. 9300 of 2017. The complaint was filed by two persons representing 13 others by

virtue of powers of attorney. According to the original complaints, they were engaged as field workers and superior field workers in the Malaria eradication programme and claim to have completed 240 days of services and hence entitled to permanency.

2. It is the case of the petitioner herein that they were engaged on temporary basis and that the work was seasonal in nature, hence the said workers were not entitled to be treated as permanent employees. There was no employer- employee relationship between the parties. It is also contended on behalf of the petitioner that the petitioner was no longer a planning authority for the area in question, since after completing of the development of the area, they have handed over the areas to the concerned Municipal Corporation.

3. While disposing of the interim relief application the petitioner was directed to continue services of the respondent till the Panvel Municipal Corporation took over services of the petitioners as contemplated in a letter dated 18th March, 2017 (incorrectly described as 11th March, 2017). On behalf of the petitioner it is submitted by Mr. Pendse that the Panvel Municipal Corporation is deemed to have taken over affairs in respect of the concerned area and services w.e.f. 1st October, 2016.

4. Prima facie it is evident that the direction to continue the services of the complainant will have to be now enforced against the Panvel Municipal Corporation which was not heard in the matter. Furthermore, perusal of the

impugned order reveals that there are serious contradictions as far as the basic factual aspect of the respondents having completed 240 days service in the relevant years. Paragraph 8 seems to suggest that several of these workers had completed 240 days. Whereas in paragraph 9 and 10 the order observes that it cannot be stated with certainty that 240 days of service has been established by the respondents.

5. In the circumstances, it is appropriate that these two petitions be disposed of finally by setting aside the impugned order and by remanding the matter for fresh hearing. Accordingly, I pass the following order :

- (i) The impugned order dated 16th June, 2017 is set aside.
- (ii) The petitioners in Writ Petition No. 12571 of 2017 who are respondent in Writ Petition No. 9300 of 2017 will be at liberty to seek amendment to implead Panvel Municipal Corporation in the complaint, if so advised.
- (iii) If such amendment is made and is allowed, it will be open for the petitioner CIDCO to file additional replies.
- (iv) Writ Petitions are disposed of in the above terms.

(A.K. MENON, J.)