

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

WRIT PETITION NO.14004 OF 2017

Shri Aadesh Vithal Bhangle

..Petitioner

Vs.

**The Municipal Corporation of Greater Bombay
& Ors.**

..Respondents

Mr. Bhushan Bandiwadekar, for the Petitioner.

Mr.S.S. Pakale alongwith Mr.R.Y. Sirsikar, for the MCGM.

Mrs.Rupali Shinde, AGP for the State.

**CORAM :R. M. SAVANT, &
K.K. SONAWANE ,JJ**

DATE : 27th AUGUST, 2018

P.C.

1 The above Writ Petition has been filed for a direction against the Respondent No.1 to consider the case of the Petitioner for the post of Assessor and Collector from the post of Deputy Assessor and Collector and to promote the Petitioner in the said post, an interim relief is sought to the effect that the Respondent Nos.1 and 2 be directed to forthwith constitute a meeting of the Departmental Promotion Committee so as to consider the Petitioner for the post of Assessor and Collector.

2 On behalf of the Respondents i.e. the MCGM, an Affidavit in reply has been filed by the Chief Personnel Officer Smt. Sandhya Vhatkar. It is stated in the said reply that earlier the department in question comprised of three

departments i.e. Property tax, Octroi Tax and Election Department. On account of abolition of the Octroi Tax with effect from 1st July 2017, the workload of the said department substantially reduced and consequently, the responsibilities attached to the post of Assessor and Collector also reduced. In view of the said change, it is stated that the MCGM is contemplating whether to abolish the post of Assessor and Collector and to bring the same within the control of any other Officer (such as Deputy Chief Engineer or any officer equivalent). In view of the aforesaid, the MCGM has not taken up steps to fill up the said post of Assessor and Collector. It is, further, stated that the earlier incumbent has superannuated on 31st May 2011 and in view of the changed scenario no appointment is made against the said post. It is stated that if the said post is not abolished and decision is taken to appoint a suitable and qualified officer, then candidature of the Petitioner would be considered. It is, further, stated that the MCGM has not overlooked the claim of the Petitioner for consideration against the said post and has, till date, not decided to appoint any other candidate against the said post.

3 Hence, the averments disclose that the MCGM would be taking a policy decision as to whether the post of Assessor and Collector is to be continued. It is trite that the employer is entitled to manage its affairs in the manner it deems fit. The re-alignment of the departments, if any, would therefore also fall within the domain of the employer.

4 So far as instant case is concerned, it is not as if the Petitioners case is being rejected, but the issue as regards whether to effect promotion to the post of Assessor and Collector is kept in abeyance pending the decision as to whether the said post is required to be abolished in the changed scenario. We are sure that as and when a decision is taken to fill up the the post, the Petitioners case would be undoubtedly considered by the MCGM. The fact that the Petitioner would retire in November 2018 would also be required to borne in mind, if the MCGM decides to fill up the post by promotion.

5 Reliance placed by the learned counsel appearing on behalf of MCGM on the Judgment of the Apex court in the case of **C.O. Arumugam & Others vs. The State of Tamil Nadu & Ors.**¹ seems to be apposite as in the said judgment it has been held that the consideration of promotion to be postponed can only be on reasonable grounds. In the facts and circumstances of the case, the ground made out by the MCGM cannot be said to be unreasonable or arbitrary. In view thereof, it is not necessary to keep the above Writ Petition pending.

6 In the light of the observations made hereinabove, the Writ Petition to stand disposed of.

[K.K. SONAWANE, J]

[R.M.SAVANT, J]