

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

LETTERS PETENT APPEAL NO.137 OF 2010

IN

WRIT PETITION NO. 386 OF 2002

The Jalgaon Municipal Corporation,
(formerly Jalgaon Municipal Council)
Sardar Vallabhbhai Tower,
Navi Peth, Jalgaon,
District; Jalgaon
Through its Commissioner.

APPELLANT

VERSUS

1. Sunil s/o Premchand Narkhede,
Age; 44 years, Occ; Nil,
R/o; 94/B, Jeevan Nagar,
Jalgaon, Taluka & District Jalgaon.

2. The District Collector,
Collector Office, Jalgaon
District; Jalgaon.

3. The State of Maharashtra
WITH

RESPONDENTS

LETTERS PETENT APPEAL NO.141 OF 2009

IN

WRIT PETITION NO. 422 OF 2002

The Jalgaon Municipal Corporation,
(formerly Jalgaon Municipal Council)

Sardar Vallabhbhai Tower,
Navi Peth, Jalgaon,
District; Jalgaon
Through its Commissioner.

APPELLANT

VERSUS

1. Smt. Vandana Chintaman Chaudhari,
Age; 39 years, Occupation; Nil,
Resident of Dhondki Vihar,
C/o; Unmesh Pandharinath Chaudhari,
Asoda, Jalgaon,
Taluka & District Jalgaon.
2. The District Collector,
Collector Office, Jalgaon
District; Jalgaon.

3. The State of Maharashtra

RESPONDENTS

...
Shri. R.B. Temkar & Shri. Pradip R. Patil, Advocate
for Petitioner
Smt. Surekha Mahajan, Advocate for Respondent No. 1
Shri R.B. Bagul, AGP for Respondent Nos. 2 and 3
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**CORAM : T.V. NALWADE &
SUNIL K. KOTWAL, JJ.**

Date of Judgment : 11.01,2019

ORAL JUDGMENT (Per T.V. NALWADE, J]

Both the proceedings are filed to challenge
the judgment and order of the Writ Petition No. 386

of 2002 decided with other two proceedings by the learned Single Judge on 24.06.2009.

2. Heard both sides.

3. Both the petitions were filed by the employees of local body, Jalgaon Municipal Corporation (formerly Jalgaon Municipal Council) to challenge the order of termination made against them by the employer. The Single Judge came to the conclusion that appointments of the petitioners were illegal and giving appointments to them by respondent No. 2 was un-authorized act and for that respondent No. 3 the Chairman of the Standing Committee was responsible and the order is made against respondent Nos. 1 to 3 to pay Rs. 1,00,000/- to each petitioner by way of ex-gratia payment which is to be treated as compensation for un-authorized act.

4. Learned counsel for the

appellant/Corporation submitted that the Corporation is a fictitious entity and acts through persons like respondent Nos. 2 and 3 of Writ Petition and like the President and the Chairman of the Standing Committee. He submitted that the appointments were made by them when there was no authority to them and due to that appointments were cancelled and so they should be made to suffer and making the Corporation to make payment of such amount would be the loss to the public exchequer and that would be against the public interest. He submitted that in ordinary course the Single Judge ought to have given liberty to the Local Body to recover that amount from the President and the Chairman of the Standing Committee who are responsible for issuing illegal orders of appointment.

5. Aforesaid submission made the Local Body needs to be accepted, as due to illegality of the acts of President and the Chairman of the Standing

Committee such situation was created against the Local Body. It can be inferred that they acted against the interest of the Local Body and they must be beneficial of the illegal acts. This Court holds that initially Municipal Corporation needs to make payment of amount, but it will be open for the Municipal Corporation to recover that amount from the then President and Chairman of the Standing Committee who were responsible for making the appointments.

6. All the three appeals are allowed. Accordingly the operative order passed by the Single Judge is modified as follows :

"a) The Corporation, Jalgaon (In the past it was Municipal Council) is allowed to recover the amount after making payment to the petitioners of Writ Petition as per the order made by the Single Judge.

b) Even coercive measures can be used and with the assistance of the Collector the recovery of that amount

can be made. The Corporation to make payment within three months from today."

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

mahajansb/