

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13757 OF 2018**

Govind ParabPetitioner
versus
The State of Maharashtra and ors.Respondents

Ms. Neeta Karnik, advocate for the petitioner.
Mr. R. S. Pawar, AGP for the State.
Mr. N. R. Bubna, advocate for respondent Nos. 2 and 3.
Mr. Kiran S. Bapat i/b. Mr. A. H. Fatangare, advocate for respondent No.4.

**CORAM : RANJIT MORE &
P. N. DESHMUKH, JJ.**

DATE : 15th NOVEMBER, 2019.

P. C. :

1. Heard Ms. Karnik, learned counsel for the petitioner, Ms. Pawar, learned AGP for the State, Mr. Bubna, learned counsel for respondent Nos.2 & 3- Corporation and Mr. Bapat, learned counsel for respondent No.4.

2. By this petition, the respondent No.4's promotion to the post of Municipal Secretary in the office of respondent No.2-Corporation is challenged by the petitioner on two counts viz. (1) Petitioner is senior to respondent No.4 and (2) Constitution of Departmental Promotion Committee (DPC) is not valid.

3. In respect of the first ground of objection regarding seniority, we find no merit inasmuch as we find that respondent No.4 was shown senior to the petitioner in Seniority Lists of 2006 and 2015. For the first time in the year 2018, the petitioner has challenged the seniority list by making prayer in this petition. We are of the opinion that the grievance of the petitioner can be redressed by allowing him to give representation to respondent No.2-Corporation and the Corporation, in the event, such representation is given, shall decide the petitioner's grievance expeditiously.

4. Coming back to the challenge to respondent No.4's promotion on the ground of constitution of DPC is concerned, Ms. Karnik, learned counsel for the petitioner submitted that the Chief Auditor was not a member of the DPC in terms of provisions of Section 54(1) of the Maharashtra Municipal Corporation Act, 1949. Mr. Bubna, learned counsel for respondent No.2 and 3, pointed out that Sharad Belosay was the Accountant at the relevant time and holding the charge of Municipal Auditor. In that view of the matter, we do not find any substance in the contention of the petitioner in that regard.

5. Be that as it may, the eligibility for the post of Municipal Secretary is given at page 63 of the petition. It shows that candidates are required to be decree-holders from any recognized University and

preference shall be given to law-graduates. The fact that respondent No.4 is a law-graduate is not disputed by learned counsel for the petitioner. Therefore, rightly preference was given to respondent No.4 and he was promoted to the post of Municipal Secretary.

6. Taking totality of the facts and circumstances in to consideration, we do not find any merit in the petition and the same is dismissed as such.

[P. N. DESHMUKH, J.]

[RANJIT MORE, J.]