

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 469 OF 2019**

Shri Sachin Sudhakar ChawathePetitioner
versus
Mira Bhayander Municipal Corporation and anr.Respondents

Mr. N. V. Bandiwadekar, advocate for the petitioner.
Mr. N. R. Bubna, advocate for respondent Nos.1 and 2.

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

DATE : 15th NOVEMBER, 2019.

P. C. :

Heard Mr. Bandiwadekar, learned counsel for the petitioner
and Mr. Bubna, learned counsel for the Corporation.

2. In pursuance of advertisement dated 27th August, 2009, after conducting written examination and oral interview, the petitioner was appointed to the post of Public Relation Officer. The essential qualification for this post was (a) Degree in any branch from any recognized University and (b) Diploma in Journalism and Mass Communication. The petitioner filed two applications for seeking appointment. In one application, he relied upon Diploma in Journalism and Mass Communication from Patna University and in another application, he relied upon Diploma in Journalism and Mass

Communication from Nari Ekta Unnati Mandal, Kalyan, Dist. Thane. The claim of the petitioner is that the same is Government recognized University.

3. When it was found that the diploma obtained from Patna University, on which, the petitioner relied was forged one, the services of the petitioner came to be terminated. The case of the petitioner, on the contrary, is that the Corporation gave him an appointment on the said post relying upon the Diploma in Journalism and Mass Communication Nari Ekta Unnati Mandal, Kalyan, Dist. Thane.

4. Initially, the petitioner approached this Court by filing petition No.7280 of 2011. Since the remedy of appeal was available to the petitioner under Section 56 (4) of the Maharashtra Municipal Corporation Act, 1949, this Court declined to entertain the petition. However, the Court granted liberty to the petitioner to avail appropriate remedy of appeal.

5. In pursuance of the above liberty, the petitioner filed an appeal before the Standing Committee of respondent No.1 – Corporation. The said appeal came to be disposed of by resolution dated 11th August, 2016.

6. Mr. Bandiwadekar, learned counsel for the petitioner, contended that in view of the appellate order of the Standing Committee, it is obligatory on respondent Nos.1 and 2 to reinstate the petitioner and since they have not complied with the resolution, he has approached this Court seeking directions to respondents to implement the said resolution. Mr. Bubna, learned counsel for the respondents, on the contrary, disputed the contention of Mr. Bandiwadekar. Mr. Bubna submitted that the Standing Committee, by the said order, did not set-aside the termination order nor there is an order of reinstatement and, therefore, the petition is devoid of any merit. He also submitted that prosecution is also pending against the petitioner in Thane District Court regarding forged Diploma obtained by him from Patna University.

7. In the light of rival submissions, we have perused the appellate order viz. Resolution of Standing Committee dated 11th August, 2016. The resolution reveals that the Standing Committee has noted the facts of the present case and ultimately concluded that subject to the outcome of court case pending in Thane District Court as well as complying with the Rules and Regulations, it has no objection if the petitioner is allowed to resume the duties to the post of Public Relation Officer. Thus, in our considered view, the appellate order of the Standing Committee is very vague. The Standing Committee has not set-aside the termination order of the petitioner nor has it given direction to the Corporation to reinstate

the petitioner. The Standing Committee has merely opined that it has no objection to the petitioner resuming to the subject post subject to the outcome of the case pending in Thane District Court as well as complying with the rules and regulations.

8. The grievance of the petitioner is that, he cannot challenge this order inasmuch as his appeal was not dismissed and Corporation also disputes the contention of the petitioner that his appeal was allowed by the aforesaid order.

9. In the above circumstances, we are constrained to remand the matter to the Standing Committee to reconsider the petitioner's appeal afresh. We, accordingly, dispose of the petition by passing following order :

(1)The impugned resolution dated 11th August, 2016, passed by the Standing Committee-Appellate Authority of respondent No.1 is quashed and set-aside and the matter is remanded back to the Standing Committee to take fresh decision on the petitioner's appeal in accordance with law as expeditiously as possible and preferably within a period of three months from the date of receipt of this order.

(2) It is made clear that we have not gone into the merits of matter and all rights and contentions of the respective parties are kept open.

The writ petition stands disposed of.

[P. N. DESHMUKH, J.]

[RANJIT MORE, J.]