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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.1826 OF 2017
WITH
CIVIL APPLICATION NO.401 OF 2020
CIVIL APPLICATION NO.402 OF 2020
IN
WRIT PETITION NO.1826 OF 2017**

Suhas s/o Vishnupant Gore,
Age: 48 years, Occu: Service as
Medical Officer,
R/o. C/o. Gore Hospital,
Near Ushakiran Cinema Hall,
Barshi Road, Latur,
Tq. & Dist. Latur

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. Commissioner,
Municipal Corporation,
Latur

..RESPONDENTS

Mr S. R. Choukidar, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondent No.1;
Mr A. N. Irpatgire, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 15th January, 2020

ORAL ORDER:

Heard Mr Choukidar, learned Counsel appearing on behalf of
the applicant/petitioner, at length.

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2. Two civil applications are filed, namely, Civil Application No.401 of 2020 and Civil Application No.402 of 2020. In Civil Application No.401 of 2020, the applicant/petitioner prays for an amendment to the petition, whereas in Civil Application No.402 of 2020, the applicant/petitioner is seeking conditional permission to join the duties in terms of the appointment order dated 17th December, 2019, issued by respondent No.2 – Municipal Corporation, Latur.

3. Mr Choukidar, learned Counsel appearing on behalf of the applicant/petitioner invited our attention to the order dated 15th October, 2019, passed by the Division Bench this Court, which reads thus:

“1. There has been approval to the rules of recruitment of Latur Municipal Corporation and pursuant to the same the petitioner has filed an application for regularization of services. Rules have got approval albeit learned counsel Mr. Irpatgire purports to point out that the rules are yet to be gazetted. In view of the same it is expected that the concerned authorities would take appropriate action.

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4. It may not be out of place at this stage to refer to the challenge raised in the petition. In short, it can be stated that the petitioner's grievance is in respect of inaction on the part of respondent – Municipal Corporation to grant regularization to the appointment of the petitioner and then on the backdrop of this grievance, the ancillary prayers are made in the petition.

5. In view of the order of this Court, dated 15th October, 2019, the respondent – Municipal Corporation passed the order and the same is placed on record at Exh. 'B' of Civil Application No.402 of 2020. Perusal of this order shows that the Rules framed by respondent – Municipal Corporation, Latur in respect of entry in the services and classification of the services of Municipal Corporation are gazetted. With this statement in the order, the order further proceeds on issuance of an appointment to the petitioner, subject to certain conditions.

6. Mr Choukidar, learned Counsel for the applicant/petitioner vehemently submitted that certain conditions of this order are prejudicial to the interest of the petitioner. It is also submitted by Mr Choukidar that in Civil Application No.401 of 2020, the applicant/petitioner had referred to the proposed grounds in challenge to the order issued by the respondent – Municipal Corporation.

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7. On the backdrop of the submission of Mr Choukidar, learned Counsel for the applicant/petitioner, perusal of both Civil Applications shows that though the ground is raised in Civil Application No.401 of 2020, there is no consequential prayer sought for in the proposed amendment to the petition. Apart from this, in our opinion, when the petition was filed in this Court, it was for the grievance of regularization and now, the order is passed by the Municipal Corporation, Latur.

8. Thus, the purpose of approaching this Court insofar as the grievance of regularization is concerned, no more survives. The petitioner may have the grounds to challenge the order recently passed by the respondent – Municipal Corporation, but then it would be in an entire change scenario and if the challenge is made to that order, would be on a different backdrop of texture of an independent challenge.

9. When the aforesaid facts were apprised to Mr Choukidar, learned Counsel for the applicant/petitioner, he was fair enough to submit before this Court that the petitioner be permitted to file fresh writ petition so as to challenge the order issued by respondent – Municipal Corporation, dated 17th December, 2019. He then submitted that it would require some time to file petition proper in this Court and

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in the meantime, the petitioner may face a difficulty when the order dated 17th December, 2019 refers to a stipulation of period for joining and the same is referred to in condition No.2 of the order. It is submitted by Mr Choukidar that this order is passed on 17th December, 2019 and within couple of days, the period would expire and even the petitioner takes all necessary steps to file the petition, it would require three to four days and in that case, the respondent – Municipal Corporation may turn down the claim of the petitioner in view of condition No.2 of the order dated 17th December, 2019.

10. There is some merit in the submissions of Mr Choukidar, learned Counsel for the applicant/petitioner. Accordingly, to protect the interest of the petitioner for a limited period, so that the petitioner can avail appropriate remedies under law, while disposing present writ petition and granting liberty to the petitioner to file fresh petition challenging the order dated 17th December, 2019 within a period of one week from today, we direct the respondent – Municipal Corporation, Latur, not to insist on condition No.2 of the order dated 17th December, 2019 for a period of two weeks from today. Needless to state that the petitioner is at liberty to challenge the entire order dated 17th December, 2019 or the conditions of the order, if so advised. At this stage, we are issuing directions only in view of condition No.2,

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keeping all the contentions open. Accordingly, the present writ petition is disposed of.

11. In view of disposal of writ petition, no orders are required to be passed on Civil Application No.401 of 2020 and Civil Application No.402 of 2020 and the same stand disposed of.

12. The authenticated copy of this order be supplied to Mr Irpatgire, learned Counsel appearing on behalf of respondent No.2. In turn, Mr Irpatgire to communicate the same to the Municipal Corporation, Latur forthwith.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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