

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2630 OF 2017

Smt. Sushma w/o Suryakant Vibhute ... PETITIONER

VERSUS

The State of Maharashtra and others ... RESPONDENTS

WITH

WRIT PETITION NO.2622 OF 2017

Lalita Bhimrao Satbhai ... PETITIONER

VERSUS

The State of Maharashtra and others ... RESPONDENTS

WITH

WRIT PETITION NO.2651 OF 2017

Ankush Manikrao Munde ... PETITIONER

VERSUS

The State of Maharashtra and others ... RESPONDENTS

WITH

WRIT PETITION NO.4125 OF 2017

Shivaji s/o Jivraj Munde ... PETITIONER

VERSUS

The State of Maharashtra and others ... RESPONDENTS

.....

Mr. Sachin S. Deshmukh, Advocate for the petitioners

Mrs. M.A. Deshpande, A.G.P. for respondent - State
Mr. M.S. Shaikh, Advocate for respondent No.3

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**CORAM : SUNIL P. DESHMUKH AND
R. G. AVACHAT, JJ.**

DATE : 7th DECEMBER, 2020.

ORDER :

The petitions have been preferred against the order dated 6/2/2017, which ensued show-cause-notice dated 18/2/2017. It is being contended that the order has been passed after considerable time lapse from the date of hearing, which in the present case appears to be 4/6/2016 and the decision has been given on 6/2/2017.

2. Learned counsel Mr. Sachin Deshmukh emphatically relies on the decision of this court dated 29/1/2020 in writ petition No.3625 of 2019 (*Infra Dredge Services Pvt. Limited Vs. Union of India and Anr.*), in which the observations of the division bench of this Court in the case of *Shivsagar Veg. Restaurant* have weighed with it, as contained in paragraph No.8 of the same, extracts of the same are reproduced hereinbelow as under :-

“8. The factum of delay of six months in passing the order after the hearing was concluded is not in dispute. The Division Bench of this Court in the case of Shivsagar Veg Restaurant had observed thus :-

“11. Having said so, the inordinate unexplained

delay in pronouncement of the impugned judgment has also rendered it vulnerable.

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.....

“5.

“.....Nevertheless an unreasonable delay between hearing of arguments and delivery of judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even when written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments .”

(emphasis supplied)

6.

7.

8.

9. *In the aforesaid circumstances, we set aside the impugned order dated 31 July 2013 and direct the Additional Commissioner of Central Excise and Customs to pass a fresh order after granting the Petitioner an opportunity of personal hearing. Needless to add that the resultant adjudication order would be passed within a reasonable time after the conclusion of the hearing granted to the Petitioner.”*

3. Having regard to said observations and decision of division bench, it appears to be expedient that the concerned authority i.e. respondent No.2 decides on the proposals in respect of appointments of petitioners afresh, granting a fresh opportunity of hearing to the petitioners.

4. In the circumstances, we set aside the order dated 6/2/2017 to the extent of petitioners, taking into account observations of the division bench of this court in the decision referred to supra, making it clear that this court has not dealt with the matters on facts and / or merits and / or even on law and / or legality or otherwise of order by the authority.

5. As such, respondent No.2 to take decision afresh, uninfluenced by present order, on its own merits, without getting baulked by setting aside of the order. The decision be taken, affording opportunity to parties, preferably within a period of five months from the date of receipt of writ of this order.

6. Writ petitions are disposed of accordingly.

**(R. G. AVACHAT)
JUDGE**

**(SUNIL P. DESHMUKH)
JUDGE**

fmp/-