

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3730 OF 2017

Mr.Vasant Gatalu Rane and others. ... Petitioners.
V/s.
Mira Bhayandar Municipal Corporation
and another. ... Respondents.

Mr.Ashutosh Gole for the Petitioners.
Mr.Vaibhav Jagdale i/b. Mr.Avinash Fatangare
for Respondent No.1.
Mr.Kiran Thorat, AGP for Respondent No.2.

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CORAM : NITIN JAMDAR AND
M.S. KARNIK, JJ.

DATE : 24 January 2020.

P.C. :

The Petitioners have challenged the orders passed by the Respondent- Corporation seeking to recover the amounts from their salary on the ground that excess amount was paid.

2. In view of the order that we propose to pass, it is not necessary to narrate the detailed factual background. Suffice it to say that the Petitioners are working as Class-II employees with the Respondent- Corporation. Sometime in the year 2014, the

Petitioners were being paid by the Respondent- Corporation as per the existing pay. It appears that the Respondent- Corporation appointed a private consultancy for verifying the pay-scales. Certain recommendations were made by the Consultant. Based upon the recommendations, the pay-scales of the Petitioners were re-fixed and recovery was initiated.

3. We have perused the impugned orders, the order referring to the appointment of Consultant and the report of the Consultant. The impugned orders only state that pay in respect of the Petitioners be fixed and, if it is found that excess amount is paid, the same should be recovered in 10 equal installments. If it is found that there are arrears, then the same should be paid to such employees. On the face of it, this order cannot be said to be an order of recovery. It is clear therefrom that further steps needed to be taken. We are informed that except Petitioner Nos.3 and 15, in respect all other Petitioners, recovery has already been made and in respect of Petitioner Nos.3 and 15, the recovery is still going on.

4. Reply affidavit is filed and our attention is also drawn to the ad-interim order regarding the merits of the case. The impugned orders, pursuant to which recovery is sought to be made, give no particulars whatsoever as to how much amount is due, whether it is to be recovered or refunded and when to do so. Even in the reply, the aforesaid amounts are not mentioned. The recovery of the amount cannot be raised as vague as this. The Petitioners will have to be

given notice as to how much amount is to be recovered from their salary, in what manner it will be recovered and what is the reason for the said recovery. On receipt of notice, the employees are entitled to make representations. Since these steps have not been taken by the Respondent- Corporation and no information is placed on record, it is not possible for us to adjudicate on the controversy at the first instance, as to whether the recovery is to be effected and how much amount is to be recovered. The proper course of action would be that Respondent- Corporation hears the Petitioners and passes necessary orders after giving them necessary particulars by way of notice. As regards the Petitioners in case of whom recovery is stated to have been effected, the position can continue till the decision is taken by the Respondent- Corporation as above. As regards other Petitioners in respect of whom recovery is still pending, further steps will not be taken until the representations as above are decided.

5. Accordingly, we dispose of the petition directing that the Respondent- Corporation will give notice to each of the Petitioners specifying the particulars of amounts due and to be recovered from them and how much amount is recovered and recoverable and the reason for such recovery. The Respondent Corporation will give an opportunity to the Petitioners to give a reply and then take a decision thereupon in accordance with law.

6. In view of our clarification as above, it is not necessary to set aside the impugned orders as, according to us, it is not a final order but a step before the final order.

7. Writ petition is disposed of in the above terms.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)