

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

917 WRIT PETITION NO.944 OF 2021

RAMESHWAR UTTAMRAO TEKLE
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr Phatale Sagar S
AGP for Respondents State: Mr. P. S. Patil

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 19th January, 2021

ORDER:

1. Learned Addl.G.P. accepts notice for all the respondents.
2. According to the petitioner, though the validation proceedings are pending and this Court, under order dated 8th September, 2020 in Writ Petition No. 6062 of 2020, had restrained the employer from taking adverse action only on the ground that validation proceeding is pending, still the employer has placed the petitioner on supernumerary post on second time.
3. We have also heard Mr. Patil, the learned Additional Government Pleader.
4. Initially, when the petitioner was placed on supernumerary post, we had set aside the said order pursuant to our order dated 13.01.2021 in Writ Petition No. 663/2020. Thereafter, the employer had issued notice to the petitioner directing the petitioner to submit validity certificate or else, adverse action would be taken. The said order was set aside by this Court under order dated 8th September, 2020 in Writ Petition No. 6062 of 2020. In the order dated 8th September, 2020 in Writ Petition No. 6062 of 2020,

we had observed as under:

"6. The impugned order is quashed and set aside. The employer shall not take adverse action against the petitioner only on the ground that the validation proceeding is pending. The employer any take further course of action depending upon the judgment that would be delivered on the validation proceeding of the petitioner."

5. Now, again, under the impugned resolution dated 31st December, 2020, the petitioner is placed under supernumerary post. The respondents ought not to have passed the impugned order against the petitioner. Inasmuch as the Scrutiny Committee has not decided the validation proceedings and the petitioner was protected till the validation proceedings are decided, under order dated 8th September, 2020 in Writ Petition No. 6062 of 2020.

6. Mr. Yeramwar, the learned counsel submits that the petitioner was present before the Committee twice for hearing.

7. Considering the above, as our order dated 8th September, 2020 in Writ Petition No. 6062 of 2020 in favour of the petitioner is still in force and the validation proceedings are pending, we set aside the impugned resolution qua the petitioner.

8. The employer shall abide by the order dated 8th September, 2020 in Writ Petition No. 6062 of 2020.

9. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC