

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

WRIT PETITION NO.3379 OF 2019

Vinod Tanajirao Nannavare

.. PETITIONER

VERSUS

The State of Maharashtra and Ors.

..RESPONDENTS

.....

Mr. Patil Indrale Anand V., Advocate for the petitioner

Mr. S.J. Salgare, A.G.P for the respondent no.1

Mr. Satyajit S. Bora, Advocate for the respondent no.2.

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**CORAM : DIPANKAR DATTA, CJ &
 MANGESH S. PATIL, J.**

DATE : 28/09/2021

PC. :-

The petitioner was appointed on contract basis by the Parbhani Municipal Corporation as a Veterinary Officer. It is not in dispute that service of the petitioner has been discontinued w.e.f. 28th June, 2019.

2] On 2nd March, 2019, the Corporation issued an advertisement inviting applications for appointment on the post of Veterinary Officer on contract basis. Such advertisement was challenged by the petitioner in this writ petition primarily on the ground that a contract employee ought not to be

replaced by another contract employee.

3] Facts reveal that the added respondent (respondent no.3), who was selected in pursuance of the advertisement dated 2nd March, 2019, did not accept the offer of employment on contract basis and as a consequence thereof, the post of Veterinary Officer in the Municipal Corporation is still vacant.

4] Appearing in support of the writ petition, Mr. Patil Indrale, learned advocate contends that the Municipal Corporation has acted *mala fide* in not continuing the service of the petitioner by extending the contract while extending the contract of other similarly placed employees.

5] On behalf of the Municipal Corporation, Mr. Bora, learned advocate contends that discontinuation of the service of the petitioner is not by reason of any *mala fide* act but because the Standing Committee of the Corporation decided against employing the petitioner beyond 20th June 2019 owing to his unsatisfactory work.

6] We have heard the parties.

7] Since the respondent no.3 has not accepted the offer of employment on

contract, nothing survives for decision insofar as prayer “B” of this writ petition is concerned. Regarding prayer “C”, as made by the petitioner, whereby he sought direction on the Municipal Corporation not to replace him by another contract employee and to continue him on the post till it is filled up on substantive basis, we are of the considered opinion that no direction can be given to the Municipal Corporation, on facts and in the circumstances, as prayed for.

8] Parties before us agree that the post of Veterinary Officer is yet to be sanctioned by the State Government. In the absence of such sanction, no substantive appointment can be made. However, till such time the sanction is received, the Municipal Corporation may not be able to perform its statutory functions, without employing a Veterinary Officer, either on contract or temporary basis. Although the law is well settled that one ad-hoc employee ought not be replaced by another ad-hoc employee, the situation obtaining in the present case calls for a different consideration in the light of the submission of Mr. Bora that the Municipal Corporation was not satisfied with the work of the petitioner while discharging the duties of Veterinary Officer on contract and that is the reason why the impugned advertisement dated 2nd March, 2019 was issued to explore the feasibility of expanding the zone of consideration for employment on contract.

9] In the present circumstances, we observe that unsatisfactory work of the petitioner (leading to non-extension of the contract) has not acted as the foundation but as the motive therefor; otherwise, if unsatisfactory work were regarded as the foundation by the Municipal Corporation, it would have been required to initiate proceedings and in the event of any adverse order being passed, the same would cast a stigma on the petitioner's conduct and, may have even been an impediment for consideration of his candidature for appointment in future. Such adverse consequence has wisely been avoided by the Corporation by not imputing unsatisfactory work of the petitioner as the ground for not extending the term of the contract.

10] While leaving the Municipal Corporation free to make such arrangements for discharge of duties by appointing a Veterinary Officer till final sanction of the post by the State Government is given, we grant liberty to the petitioner to apply pursuant to any advertisement that might be issued by the Municipal Corporation in future for further employment on contract. All applications received in response to such advertisement including that of the petitioner may be considered in accordance with law. If sanction is received and an exercise is undertaken for substantive appointment, then too the petitioner will be entitled to offer his candidature, if he is otherwise eligible.

11] The writ petition stands disposed of with the aforesaid observations. No costs.

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

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