

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

CIVIL APPLICATION NO.12774 OF 2017
IN RAST/35717/2015

WITH
REVIEW APPLICATION (STAMP) NO. 35717/2015

SHIRDI NAGAR PANCHAYAT SHIRDI DIST AHMEDNAGAR THROUGH
ADMINISTRATOR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHERS

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Advocate for the Applicants : Smt.Renuka B. Ghule (Palve)
AGP for Respondent 1 : Shri K.S.Patil
Advocate for Respondent 2 : Shri S.T. Shelke

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th March, 2021

Per Court:

(a) Civil Application No.12774/2017:-

1. I have heard the learned advocate for the applicants, Shri Shelke, learned advocate on behalf of respondent No.2/ employee and the learned AGP on behalf of respondent No.1, on the application for condonation of delay.

2. In fairness, the respondents submit that the delay of 112 days does not appear to be deliberate or too large. Since I share the same view and for the reasons set out in the application, which includes the reason mentioned across the Bar, that the Directorate of Municipal Administration

has orally conveyed the applicant/ Nagar Panchayat to file the review application, that the delay is condoned. The applicant/ Nagar Panchayat shall pay costs of Rs.2500/- (Rupees Two Thousand Five Hundred), to be donated to the Creche, High Court of Bombay, Bench at Aurangabad, on or before 31.03.2021, failing which, the said amount shall be recovered from the salary of the Chief Officer of the applicant/ Nagar Panchayat.

(b) Review Application (stamp) No. 35717/2015 :-

3. By the consent of the parties, the review application is taken up for hearing.

4. The learned advocate for the applicant/ Nagar Panchayat has pointed out only one aspect from the judgment dated 15.07.2015 delivered by this Court, that respondent No.2/ employee had passed his 3rd standard examination and the qualification for being a driver with the Nagar Panchayat was 10th standard. Based on this solitary ground, the learned advocate for the applicant has strenuously canvassed the review application. She has drawn my attention to the grounds formulated in paragraphs 5 to 13 of the review application.

5. The learned advocate for respondent No.2/ employee has opposed the Review Application.

6. It calls for no debate that the Review Application would not permit the review applicant to canvass the original proceedings as if the

original proceedings are being taken up for hearing. In the light of the law laid down by the Honourable Supreme Court in *Lily Thomas vs. Union of India*, AIR 2000 SC 1650, the review applicant would not be permitted to canvass all the grounds set out in the original proceedings. Unless the review applicant pin-pointedly brings forth the error apparent on the face of the record and in law, the Review Application is not to be entertained.

7. There is no dispute that the employee, namely, Dagu Yadav Kharat was a permanent employee of the applicant/ Nagar Panchayat. He was allotted the work as a driver from 1997 as per the admission of the applicant/ Nagar Panchayat before the Industrial Court in Complaint (ULP) No.287/1999, which was allowed by judgment dated 03.01.2011, that was subject matter of Writ Petition No.4660/2012. Since then, he has been working as a driver. Even today, he is performing the work of a driver and has consistently drawn the salary payable to a driver.

8. This issue was specifically raised by the applicant/ Nagar Panchayat in the said writ petition vide which, it had challenged the judgment of the Industrial Court. Paragraph 6 of the judgment sought to be reviewed evidences the contentions of the Nagar Panchayat, which were dealt with in paragraphs 8, 9, 12 and 13. As such, having been working as a driver since 1997 and even today, respondent No.2/ employee is performing his duties sincerely as a driver. Besides the solitary grievance of the Nagar Panchayat that he is not 10th pass, no grievance as

regards his driving skills has been made before this Court as a ground to dispense with his duties as a driver.

9. In view of the above, I do not find that the review applicant has made out any ground, which can be said to be pointing towards an error in law and on facts. This Review Application is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)