

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3013 OF 2021

Pune Cantonment Board

...Petitioner

Vs.

**State of Maharashtra
Through the Secretary,
Dept. of Finance**

...Respondent

**Mr. Zal Andhyarujina, Senior Counsel a/w. Mr. Tushad
Kakalia
a/w. Mr. D.J. Kakalia, a/w. Ms. Bhavna Singh a/w. Mr.
Sandeep Goyal i/b. Mulla & Mulla & C.B. & C. for the
Petitioners**

Mr. Anjani Kumar Singh for Respondent No.2

**Mr. A.A. Kumbhakoni, AG a/w. Mr. P.P. Kakade, GP a/w. Mr.
A.A. Alaspurkar, AGP a/w. Mr. Akshay Shinde, Advocate 'B'
Panel for State.**

**CORAM : A. A. SAYED &
S. G. DIGE, JJ**

DATED : 1ST DECEMBER, 2021

P.C.:

1. The Petition is filed seeking the following reliefs:
*"(a) that this Hon'ble Court be pleased to issue
a writ of certiorari or a writ in the nature of
certiorari or any other appropriate writ,
direction or order under Article 226 of the
Constitution of India, quashing and setting aside
the 1st Respondent's Impugned Decision dated*

28th November, 2019 (Exhibit 'O' to the Petition);

(b) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India, directing the 1st Respondent to consider the Petitioner's representations dated 31st January, 2018 (Exhibit 'A' to the Petition), 12th February, 2019 (Exhibit 'F' to the Petition), 9th October 2019 (Exhibit 'M' to the Petition), 21st November 2019 (Exhibit 'N' to the Petition), 21st December 2019 (Exhibit 'Q' to the Petition) and 20th January, 2020 (Exhibit 'T' to the Petition) within such times as this Hon'ble Court may direct."

2. We have heard learned Counsel for the Petitioner, learned Advocate General for State and learned Counsel for the Respondent No.2.

3. We have perused the Orders passed by this Court including the Orders dated 16th March, 2020, 17th March, 2020, 20th March, 2020 and 22nd November, 2020. We note the contention of the Petitioner that pursuant to coming into force of the Central Goods & Services Tax

Act, the Petitioner - Pune Cantonment Board is without any funds as it has no power to collect taxes. According to the Petitioner it is incumbent on the State Government to provide for compensation to the Petitioner - Pune Cantonment Board to meet their expenses.

4. In the facts and circumstances of the case, we are inclined to allow the Petition. However, on request of learned Counsel for Petitioner, we permit the Petitioner - Pune Cantonment Board to make a fresh Representation to the Chief Secretary, Government of Maharashtra, who shall decide the representation expeditiously after hearing the Petitioner. Hence, we dispose of the Petition by passing the following order:

ORDER

(i) The Petitioner- Pune Cantonment Board is permitted to make a fresh representation to the Chief Secretary, State of Maharashtra. If such Representation is made within a period of two weeks, the same shall be decided within a period of two months from the date of receipt of the representation after giving an opportunity of hearing to the Petitioner.

(ii) We make it clear that the representation shall be decided uninfluenced by the

letter/decision dated 28th November, 2019 of the then Chief Secretary.

(iii) It is expected of the Respondents in the meantime, to comply with the Orders of this Court.

(S. G. DIGE, J.)

(A. A. SAYED, J.)