

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8077 OF 2021**

Chandrakant Dhondur Jadhav ... Petitioner

Versus

Prasad Vishwanath Sawant and others ... Respondents

WITH

WRIT PETITION NO. 8081 OF 2021

Rupali Tukaram Akhade and others ... Petitioners

Versus

Prasad Vishwanath Sawant and others ... Respondents

.....

Mr. S.S. Shetye for the Petitioners.

Ms. M.P. Thakur, AGP for the State in WP-8077-2021 and Mr. A.I. Patel, Addl.GP for the State in WP-8081-2021.

Mr. Rajesh Datar for Respondent No.3.

Ms. Surekha Bhanage, Chief Officer, Matheran Municipal Council - Respondent No.3, present.

.....

CORAM : S.J. KATHAWALLA AND

MILIND N. JADHAV, JJ.

DATED : NOVEMBER 30, 2021.

P.C. :-

1. On 17th July, 2021, this Court passed the following Order in Writ Petition No. 2918 of 2021 :

“ The Collector has fixed the hearing on 19.07.2021. The concerned parties and/or their Advocates shall remain present before the Collector and make their submissions with regard to the show cause notice issued by the Collector. The

Collector shall hear all the concerned parties and after considering their oral / written statements/submissions pass his orders strictly on merits and without being influenced by this order. In the event, the Collector passing an order against the Petitioner, the same shall not be acted upon for a period of three weeks from the date of service of his order on the Petitioners and their Advocates.

2. In view of the above, the Writ Petition stands disposed off.”

2. Pursuant thereto, the Collector passed an Order dated 28th October, 2021. The Collector forwarded a copy of the order containing only the operative portion of his Order to the Chief Officer, Matheran Giristhan Municipal Council - Respondent No.1. The detailed order is not sent to the Chief Officer till date. In view of our above Order, the Collector ought to have sent a copy of his reasoned Order to the Petitioners and/or their Advocates. The Chief Officer not being aware of the reasoned Order addressed a letter dated 18th November, 2021 to the Collector, stating that the post held by the Petitioner in Writ Petition No.2918 of 2021 has become vacant. The Order dated 17th July, 2021 makes it clear that the order will not be acted upon for a period of three weeks from the date of service of the same on the Petitioners and their Advocates i.e. upto 30th November, 2021. The Petitioner has admittedly received a copy of the reasoned order only on 9th November, 2021. Therefore, the Chief Officer could not have written a letter on 18th November, 2021 stating that the post of the Petitioner has become vacant. However, it is clear that the said letter dated 18th November, 2021 is not written by the Chief Officer with the intention of committing

breach of the order dated 17th July, 2021, but is due to the mistake on the part of the Collector's Office, in forwarding only the operative portion of the Order dated 28th October, 2021 to the Chief Officer. Be that as it may, the Office of the Collector has not taken any steps pursuant to the letter from the Chief Officer dated 18th November, 2021.

3. The Petitioner has filed an Appeal impugning the order passed by the Collector, before the Minister of Urban Development Department. The concerned Minister shall hear the parties on 10th December, 2021 and pass his speaking order within a period of two weeks thereafter. A complete copy of the order of the Minister of Urban Development Department shall be physically served on the Petitioner and/or his Advocate. If the Orders are against the Petitioners, the same shall not be acted upon by the Respondents for a period of two weeks from the date of its service on the Petitioners and/or their Advocates. The above Writ Petitions are accordingly disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)