

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1823 OF 2019

Smt. Lalita Yashwant Jadhav

...Petitioner

Versus

The Commissioner,
Thane Municipal Corporation & Ors.

...Respondents

Mr. Gaurav Bandiwadekar i/by Mrs. Gayatri G. Bandiwadekar
for the Petitioner.

Mr. Mandar Limaye for Respondent Nos. 1 and 3-Corporation.

Mr. N.K. Rajpurohit, AGP for the Respondent Nos. 2 and 4-
State.

CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.

DATE : 4 August 2021

ORDER :

1. Rule.

2. Learned AGP waives service for Respondent Nos. 2
and 4. Mr. Limaye appearing for Respondent Nos. 1 and 3
waives service.

3. By consent of the parties, the Petition is heard finally.

4. By this Petition filed under Article 226 of the Constitution of India, the Petitioner seeks implementation of orders dated 20th May 2014 and 20th April 2017 passed by the Respondent No. 2 as to the cancellation of the order of reversion of the Petitioner from the post of Accountant to that of Senior Clerk and to reinstate her for the post of Accountant and to give grant of consequential service benefits.

5. It is not in dispute that the Petitioner was demoted from the post of Accountant to Senior Clerk pursuant to the disciplinary enquiry under Rule 8 of Maharashtra Civil Services (Discipline & Appeal) Rules 1971. The order dated 23rd October 2012 passed by the Incharge Education Officer is challenged by the Director of Education under Section 24(2) of the Bombay Primary Education Act, 1947. By an order dated 20th May 2014, the Joint Director of Education Pune has set aside the order dated 23rd October 2012. The said Incharge Education Officer was directed that the Petitioner should be appointed as Accountant to the Education Department. By

letter dated 20th April 2017, the Director of Education (Primary) once again directed the learned Commissioner to inform him as to what steps have been taken by the Commissioner to implement the order dated 20th May 2014.

6. Respondent No. 1 has not challenged the two orders till date. Learned Counsel for the Petitioner has invited our attention to Section 24(2) of the Bombay Primary Education Act, 1947 in support of the submission that the order passed by the Director of Education is final. We are not inclined to adjourn this matter. In our view, the orders passed by the Director of Education on 20th May 2014 and 20th April 2017 have attained finality and are required to be implemented by Respondent No. 1. Hence, the following order:-

- (i) Rule is made absolute in terms of prayer clause (b) of the Petition.
- (ii) Rate of interest however, is reduced to 8% per annum till the date of realization.

(iii) Writ Petition is disposed of in the aforesaid terms with no order as to costs.

(iv) In view of the statement made by the Respondent No. 3 in the Affidavit in Reply dated 31st July 2021 to the effect that now the post of Accountant in the Education Department is abolished due to the change of staffing pattern, we direct the Respondent Nos. 1 and 3 to absorb the Petitioner in any other department on identical terms on equivalent post in Thane Municipal Corporation.

(v) Respondent No. 2 to implement this order within four weeks from today.

[R.I. CHAGLA J.]

[R.D. DHANUKA, J.]