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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1876 OF 2021

Smt. Shubhangi Vitthal Sawant

...Petitioner

Versus

Brihan Mumbai Municipal Corporation
and Ors.

...Respondents

Mr. Amogh Singh a/w Mr. Jeet Gandhi i/by Mr. Abhay Thorat for the
Petitioner.

Mr. A.V. Bukhari, Senior Advocate, a/w Mr. Burhan Bukhari, Mr. Joel Carlos
and Ms. Rupali Adhate for Respondent Nos. 1 to 3.

Mr. Anil Anturkar, Senior Advocate, a/w Mr. Prasad Dhakephalkar, Senior
Advocate, Mr. Pradeep J. Thorat i/by Ms. Aditi S. Naikare for Respondent No.
4.

Ms. Rupali Borgharkar, MCGM, Present.

Ms. Chitra Sawant, MCGM, Present.

**CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.**

DATE : NOVEMBER 15, 2021.

PER COURT :

1. Heard learned Counsel appearing for the respective parties.
2. The Petitioner seeks a declaration in the Petition firstly, that the
additional charge of Municipal Secretary to Respondent No. 1 since 15th
September, 2020 till the date of filing of this Petition is contrary to the rules of
recruitment to the post of Municipal Secretary under the Corporation

Resolution as well as the Government Resolutions and secondly, a declaration of promotion of the Petitioner since 15th June, 2020 and/or and the date Petitioner became eligible and entitle for promotion with effect from 01st June, 2021.

3. Now the second declaration in respect of promotion itself is untenable and Writ Petition to that effect is not maintainable is the counter submission of learned Senior Counsel Mr. Anturkar appearing for Respondent No. 4.

4. This issue now may not fall for the consideration of this Court in view of certain developments post filing the Petition and particularly, subsequent to the order dated 23rd August, 2021. It may not be out of place to state on the backdrop of factual aspect that the Petitioner had preferred a representation to Respondent Nos. 1 to 3. The Division bench by order dated August 23, 2021 directed the Respondents to decide the representation by 17th May, 2021 within stipulated period of 04 weeks from the date of receipt of order and in the interregnum, the Respondent Nos. 1 to 3 shall file their affidavit in reply.

5. Our attention was invited to the copy of the minutes of meeting dated 01/10/2021 at 03.00 pm conducted in the Chamber of the Municipal

Commissioner. The formation of the promotion committee was consisting of Commissioner of Municipal Corporation as a Chair Persona, the Additional Commissioner, the second Additional Commissioner (Project), Additional Commissioner (City), Additional Commissioner. All these Additional Commissioners are the members of the Committee and the Assistant Commissioner, General Administration is the Secretary of the Committee.

6. The committee considering the various aspects, recommended the Petitioner's proposal for her temporary promotion for the post of Secretary, Municipal Corporation.

7. Perusal of the affidavit-in-reply submitted before this Court on behalf of the Respondent No. 1 to 3 further show that copy of the minutes of meeting along with copy of the proposal are forwarded to the office of the Municipal Corporation i.e. Respondent No. 1 on 05/10/2021 for necessary action.

8. Learned Counsel for the Petitioner submitted before this Court that as per the instructions received by him the meeting of General Body is scheduled on 22nd November, 2021.

9. Learned Senior Advocate Mr. Anturkar appearing for Respondent No. 4, on instructions, made statement before this Court that the Respondent

No. 4 though had not received the communication up till now but as soon as it is received by Respondent No. 4, the Respondent No. 4 would see to it that the communication is placed before the scheduled meeting of the General Body on 22nd November, 2021 before hand i.e. prior to the General Body Meeting.

10. Statement accepted as an undertaking to this Court.

11. It seems that there were technical riders or some reservations but as of now the statement is made before this Court on behalf of Respondent No. 4 and is accepted as an undertaking to this Court, we are not inclined to go into controversy.

12. In our opinion, now nothing more survives in the Petition, as such, the Petition is disposed of.

13. Needles to state that this Court had not made any opinion on the merits of the Petition and the contentions raised in the Petition are kept open.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)