

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4753/2021

Smt. Yogita Pramod Pipare

...Versus...

**State of Maharashtra, Through its Principal Secretary, Department of Urban
Development, N.V-2, Mantralaya, Mumbai and others**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Sunil Manohar, Senior Advocate with Shri G.N. Khanzode, Advocate for petitioner
Shri A.A. Madiwale, AGP for respondent nos.1 and 2
Shri V.N. Morande, Advocate for respondent nos.3 to 16 except respondent no.9

CORAM : AVINASH G. GHAROTE, J.

DATE : 08/12/2021

1. Heard Shri Sunil Manohar, learned Senior Counsel with Shri G.N. Khanzode, learned Counsel for the petitioner, Shri V.N. Morande, learned Counsel for the respondent nos.3 to 16 except respondent no.9 and Shri A.A. Madiwale, learned Assistant Government Pleader for the respondent nos.1 and 2. None appears for the respondent no.9, though served.

2. The petition challenges the order dated 16/11/2021, passed by the respondent no.1. The basic contention of learned Senior Counsel for the petitioner, is that

though the matter was remanded back to the respondent no.1, by this Court by virtue of the order passed on 8/10/2021 in Writ Petition No.3949/2021, directing the respondent no.1 to decide the matter before him on or before 27/10/2021 on the ground, that the earlier impugned order, was passed belatedly. Thereafter though submissions were made before the respondent no.1, by also placing written notes of arguments on 13/10/2021, the impugned order does not reflect that the same have been considered, nor the reasons for the rejection. It is therefore contended that on this short ground alone, the impugned order cannot be sustained and the same needs to be quashed and set aside and the matter be remanded back to the respondent no.1 for passing a reasoned order, reflecting the consideration of the rival submissions and the reasons for his decision. Inviting my attention to the impugned order, it is submitted that it is a word to word replica of the earlier order except for some minor changes, which would substantiate the above submissions.

3. Shri V.N. Morande, learned Counsel for the respondent nos.3 to 16 except respondent no.9 submits, that the entire attempt is to thwart the action of removing the President/petitioner, which has been so ordered by virtue of the impugned order.

4. Considering the above submissions, when Shri V.N. Morande, learned Counsel for the respondent nos.3 to 16 except respondent no.9 was asked to point out the reasonings in the impugned order, the learned Counsel indicates the reasonings from para 8 page 158 onwards, however, it is material to note, that those are mere reproduction of what has been stated in the earlier order, which is at record page 111 and does not indicate the consideration of the contentions, as pointed out in the written notes of arguments, much less any reasons for rejecting them.

5. It is a trite position of law, that any decision rendered by any authority, has to be by application of mind and after consideration of the rival contentions and recording reasons for either accepting or rejecting the contentions, which a perusal of the impugned order, indicates to be woefully absent, considering which, on this very ground, the impugned order cannot be sustained. The same is accordingly quashed and set aside and the matter is remanded back to the respondent no.1 to decide the same afresh by considering the rival contentions and recording reasons for accepting or rejecting them.

6. The parties shall appear before the respondent no.1 on 16/12/2021 at 12:00 noon. Shri V.N. Morande, learned Counsel for the respondent nos.3 to 16 except

respondent no.9 submits, that the hearing ought to be by a virtual mode, which request is not opposed by Shri Sunil Manohar, learned Senior Counsel for the petitioner, considering which agreement, the hearing shall be conducted by the respondent no.1 in a virtual mode. The entire hearing shall be completed within a span of four days from 16/12/2021, in case any party seeks any adjournment. The respondent no.1, thereafter is directed to pass a reasoned order, indicating the consideration of all the rival contentions and reasons for either accepting or rejecting the contentions, within a period of a fortnight thereafter.

7. The writ petition is allowed in the above terms.
No costs.

(AVINASH G. GHAROTE, J.)

Wadkar