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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4626 OF 2018

The Municipal Corporation of
Greater Mumbai

...Petitioner

V/s.

Dr. (Mrs.) Vaishali Gondhane & Anr.

...Respondents

Mr. Rajesh Patil with Mr. Santosh Parad i/by Mr. Sunil
Sonawane for the petitioner.

Mr. Niranjan A. Mogre with Mr. Siddhesh S. Borkar for the
respondent no. 1.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: MARCH 15, 2022

P.C.:

1. The respondent no. 1, a member of the Scheduled Caste community, had approached the Maharashtra State Scheduled Caste and Scheduled Tribes Commission (hereafter "the Commission", for short) with a grievance as regards failure and/or omission on the part of her employer, the Municipal Corporation of Greater Mumbai (hereafter "MCGM", for short), to regularize her service as Medical Officer with retrospective effect, i.e., from the date of her initial appointment being 5th August 1996. The Chairman of the Commission after hearing the petitioner and the MCGM has made the following recommendation: -

"Therefore, due to the lapses held in this matter by the Municipal Corporation, Dr. Gondane has not received the appointment in 1996. By taking this fact into consideration, it is being recommended that there may not be objection for admitting the request for Deemed date. She may be given only the Deemed Date and no financial benefit will be payable to her. The Municipal Corporation may take a positive decision in this matter. If the Applicant has not received justice from the Municipal Corporation, she may seek relief before the proper Court.

The case is being closed at the level of the Commission."

2. The MCGM has challenged the recommendation by instituting this writ petition and has prayed for an order to set aside the recommendation of the Chairman of the Commission.

3. The Commission has been established pursuant to a Government Resolution (hereafter "GR", for short) dated 1st March 2005 issued by the Social Justice & Special Assistance Department, Government of Maharashtra. As per the GR, the role of the Commission is to study the existing situation of social, educational, economic, cultural, political, etc. among the Scheduled Castes and Scheduled Tribes in the State of Maharashtra and suggest various measures to improve the same. It is also one of the purposes of the GR dated 1st March 2005 that the Commission may accept and investigate various grievances of SC & ST employees related to service. However, even after examination of such grievances, the Commission may only recommend ameliorative measures.

4. Having read the recommendation of the Chairman of the Commission, we are of the view that such Chairman did not go so far as to impose any obligation on the MCGM that the service of the respondent no. 1 has to be regularized with

effect from her initial date of appointment, i.e., 5th August 1996. What the Chairman has recommended is to consider the claim of the respondent no. 1 in the light of the observations made in such recommendation.

5. Mr. Patil, learned advocate appearing for the MCGM has, however, contended that the recommendation of the Commission records various findings which are untenable on facts and that was the primary reason for which the MCGM instituted this writ petition seeking an order for setting aside of the recommendation.

6. Having heard learned advocates for the parties and given the nature of recommendation made by the Chairman of the Commission, there is no reason to keep this writ petition pending.

7. We are not inclined to examine the legality and validity of the findings rendered by the Chairman of the Commission, to which Mr. Patil takes exception as untenable. After all, the recommendation of the Chairman is a recommendation within the terms of the provisions of the GR dated 1st March 2005 and not binding on the MCGM. The MCGM is free to either accept or refuse to accept the recommendation so made by the Chairman of the Commission. However, in the event of the MCGM not agreeing to accept the recommendation, it would be logical to hold that the MCGM would be under an obligation to assign reasons therefor, which ought to be communicated to the respondent no. 1 to enable her pursue legal remedy before the appropriate forum.

8. We, therefore, dispose of this writ petition by directing the Commissioner of the MCGM to take an appropriate

decision on the recommendation of the Chairman of the Commission in accordance with law, as early as possible but not later than four weeks from date of receipt of a copy of this order. If the recommendation is accepted, the respondent no.1 may be extended benefits of regularization from the date of her initial appointment; if not, the reasons may be furnished to the respondent no.1, whereupon she shall be at liberty to pursue her remedy before the appropriate forum in accordance with law.

9. All contentions are left open.

10. No costs.

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)