

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

WRIT PETITION NO. 1762 OF 2022

Arvind Tulshiram Moon

-- Petitioner/s

Vs.

The State of Maharashtra & Ors.

-- Respondent/s

Mr. A.A. Dhawas, Advocate for the Petitioner.

Mr. A.A. Madiwale, A.G.P. for Respondent Nos. 1 and 2.

Mr. P.S. Kshirsagar, Advocate for Respondent No.4.

CORAM : NITIN JAMDAR &
ANIL L. PANSARE, JJ.

DATE : 1 APRIL 2022.

P. C. :

Heard learned Counsel for the parties.

2. The Petitioner is aggrieved by the order dated 25 March 2022 passed by Respondent No.2 – Deputy Commissioner, Municipal Council Administration. By the impugned order, the Petitioner and Respondent No.4 have been transferred from one Municipal Council to another.

3. Learned Counsel for the Petitioner states that in spite of the specific directions by this Court in earlier round of litigation, the impugned order is passed without giving any hearing to the Petitioner. Learned Counsel for the Petitioner states that

Respondent No.3 is not a necessary party and seeks leave to delete Respondent No.3. Deletion will be at the Petitioner's risk and consequences as the order passed after deleting would not be binding on such Respondent. Leave granted. Amendment to be carried out before the next date.

4. As regards the factum of hearing to be given to the Petitioner, learned Counsel for the Petitioner has drawn our attention to the order passed by this Court on 16 March 2022 in Writ Petition No. 3803/2021 filed by Respondent No.4, wherein the earlier order was cancelled, and it was directed that if Respondent No.2 propose to relocate the Petitioner (Respondent No.4 therein), he shall also be heard in the matter.

5. It is an admitted position that the Petitioner was not given hearing. Learned Counsel for Respondent No.4 states that pursuant to the impugned order, Respondent No.4 has already joined at the transferred post.

6. Since, the order of transfer is administrative and that Respondent No.4 has already been joined at the transferred post, though we are inclined to direct Respondent No.2 to pass a fresh order after giving hearing to the Petitioner and Respondent No.4, we are not inclined to alter the position that exists as on today.

7. Therefore, it is directed that Respondent No.2 will reconsider the impugned order dated 25 March 2022 for the

purpose of giving hearing to the parties and pass a fresh order. We make it clear that we have issued this direction only on the ground that the Petitioner was not heard and not on merits, and we have not altered the position existing as on today.

8. Learned Assistant Government Pleader states that the Petitioner and Respondent No.4 can appear in the office of Respondent No.2 - Deputy Commissioner on 6 April 2022. Thereupon, the office of the Deputy Commissioner will give a specific date to the Petitioner and Respondent No.4 for hearing.

9. The Writ Petition is disposed of accordingly.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]