

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO.11433 OF 2019

ARJUN PITAMBAR BADGUJAR
VERSUS
DHULE MUNICIPAL CORPORATION DHULE THROUGH
MUNCIPAL COMMISSIONER AND ANOTHER

AND

903 WRIT PETITION NO.13562 OF 2019

SHAIKH HYDER SHAIKH IBRAHIM
VERSUS
DHULE MUNICIPAL CORPORATION, DHULE THROUGH
MUNICIPAL COMMISSIONER AND ANOTHER

AND

904 WRIT PETITION NO.14508 OF 2019

MADHUKAR VISHWANATH BHAT
VERSUS
DHULE MUNICIPAL CORPORATION, DHULE THROUGH
MUNICIPAL COMMISSIONER AND ANOTHER

AND

906 WRIT PETITION NO.2895 OF 2020

SHIVAJI SOPAN CHOUGULE
VERSUS
DHULE MUNICIPAL CORPORATION DHULE AND
ANOTHER

AND

907 WRIT PETITION NO.5317 OF 2020

GAYABAI ANANDA GHADGE
VERSUS
DHULE MUNICIPAL CORPORATION & ANR.

AND

(2)

908 WRIT PETITION NO.1515 OF 2021

ASHALATA VIJAY PINGLE
VERSUS
DHULE MUNICIPAL CORPORATION AND ANOTHER

AND
WRIT PETITION NO.1518 OF 2021

MAGAN PUNA PAWAR
VERSUS
DHULE MUNICIPAL CORPORATION AND ANOTHER

AND
WRIT PETITION NO.1504 OF 2021

RAJANI HARISHCHANDRA HIRE
VERSUS
DHULE MUNICIPAL CORPORATION AND ANOTHER

AND
WRIT PETITION NO.1517 OF 2021

VAMAN GARBAD PATIL
VERSUS
DHULE MUNICIPAL CORPORATION AND ANOTHER

AND
WRIT PETITION NO.1520 OF 2021

SUNANDA RAGHUNATH LAHANE
VERSUS
DHULE MUNICIPAL CORPORATION AND ANOTHER

AND
910 WRIT PETITION NO.7731 OF 2021

BANO BEE MUNNA SHAIKH
VERSUS
DHULE MUNICIPAL CORPORATION THR ITS
COMMISSIONER AND ANOTHER

(3)

AND
WRIT PETITION NO.1680 OF 2023

SMT. INDUBAI SUKLAL CHAVAN
VERSUS
DHULE MUNICIPAL CORPORATION, THR ITS
COMMISSIONER AND ANOTHER

AND
WRIT PETITION NO.8789 OF 2019

SMT. RAJANI VIJAY KAKADE
VERSUS
DHULE MUNICIPAL CORPORATION, THR ITS
COMMISSIONER AND ANOTHER

....

Mr Ajay S. Deshpande, Advocate for petitioners;
Mr S. K. Tambe, Mr S. G. Karlekar, Mr S. G. Sangle, A.G.Ps. for
respondents/State in respective petitions
Mr Amol S. Sawant, Advocate for respondent No.1 in WP
Nos.11433/19 AND 13562/19
Mr N. N. Desale, Advocate for respondent No.1 in WP
Nos.14508/19, 7731/21 & 8789/19, 8789/19
Mr A. V. Hon, Advocate for respondent No.1 in WP No.5317/20
Mr S. P. Shah, Advocate for respondent No.1 in WP Nos.1515/21,
1518,/21, 1504/21, 1517/21 & 1520/21

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 10th February, 2023

PER COURT:

1. We have considered the submissions of the learned
Advocates for the petitioners, the learned A.G.Ps. appearing for

(4)

the State and the learned advocates on behalf of the respondent/Dhule Municipal Corporation.

2. Considering the order that we are passing, we are not advertent to their entire submissions. Suffice it to say that, these are the petitioners, who have earlier approached the learned Industrial Court, by preferring Complaint (ULP) under Section 28(1) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Judgments in each of these cases have been delivered by the learned Industrial Court. Vide the said judgments, which are practically identical, each of the complainants have been granted permanency w.e.f. the date mentioned in the respective operative part of the said judgments. The Dhule Municipal Corporation preferred Writ Petition No.3637/2021 before the learned Single Judge Bench of this Court for challenging the judgments, which were delivered between 1994 to 1997. Considering the delay of almost 20 to 25 years, the learned Single Judge dismissed the writ petition vide order dated 24/02/2021.

3. It is pointed out by the petitioners that the Dhule Municipal Corporation had passed a Resolution bearing Resolution No.124

dated 30/12/2020 on the Subject No.92. The last paragraph of the Resolution which is at page Nos.68 and 69 of the petition paper book, reads as under :-

“उक्त कार्यालयीन प्रस्तावा नुसार मे. औद्योगिक / कामगार न्यायालयाचे आदेशा नुसार कार्यरत ८२ कर्मचाऱ्यांचे प्र करणी महानगरपालिका प्र शासना तर्फे मे. उच्च न्यायालय खंडपीठ औरंगाबाद येथे अपिल दाखल करण्यात आले आहे. सदर प्र करणी मे. उच्च न्यायालय जो निर्णय देईल त्या प्रमाणे महानगरपालिका प्र शासनाने कार्यवाही करावी. तसेच २८ कर्मचाऱ्यांचे प्र करणी त्याची मुळ नियुक्ती व सेवा कालावधी ८२ कर्मचाऱ्यां प्रमाणे असुन २८ कर्मचाऱ्यांची न्यायालयात अथवा कुठल्याही सक्षम प्राधिकरणाकडे दाद मागितलेली नाही. तथापी मनपा सेवेमध्ये स्थाई सेवेत समाविष्ट करणे बाबत त्यांनी सतत विनंती व पाठपुरावा केलेला आहे. त्यामुळे ८२ कर्मचाऱ्यांच्या बाबतीत घेतला जाणारा निर्णय नैसर्गिक न्यायाच्या व फायदेशीर दृष्टीने सुध्दा २८ कर्मचाऱ्यांना लागू करणे हे क म प्राप्त आहे व मनपाचे हिताचेसुध्दा आहे. ८२ कर्मचाऱ्यांचे प्र करणी में उच्च न्यायालय जो निर्णय देईल, तो या २८ कर्मचाऱ्यांचे प्र करणी लागू राहील. सदर ठरावाची कार्यवाही करतांना प्र शासनाने प्र शासकीय बाबी बिंदु नामावली शैक्षणिक पात्रता ई बाबी तपासून धुळे महानगरपालिका मंजुर व रिक्त असलेल्या पदावर सेवाज्येष्ठते नुसार सामावुन घेवुन त्यांची सेवा पूर्वलक्षी प्रभावाने धरण्यास तत्वतः मान्यता देण्यात येत आहे. सदर ठरावाचा लाभ केवळ सद्यस्थितीत मे. न्यायालयाचे आदेशा नुसार कार्यरत आदेशा नुसार कार्यरत ८६ व अन्य आदेशा नुसार मंजुर नसलेल्या पदावर फटातील कार्यरत २८ कर्मचाऱ्यांना देण्यात यावा. प्रस्तुत प्र करणी मे न्यायालयाच्या आदेशा नुसार सेवा पूर्वलक्षी प्रभावाने धरावी लागत असल्यास त्यांना मागील कोणताही फरक देय होणार नाही, त्या बाबत प्र शासनाने

संबंधीतांकडून तसे बंधपत्र लिहून घेण्यात यावे. सदर प्रस्तावास सर्व सन्मा. सदस्यांना सहमतीने मान्यता देण्यात येत आहे.”

4. The learned Advocates representing the Municipal Corporation submit on the basis of the record that, the judgments delivered by the Industrial Court, in some of these cases, were never challenged. Those judgments which were challenged, led to the dismissal of the Writ Petition, vide order dated 24/02/2021. These petitioners can prefer individual representation setting forth the details of their employments and their litigation journey, with the accompanying documents. Each representations, along with the documents, would be treated as independent representation by the Corporation and the same would be considered on it's merits.

5. In one batch of employees, who had preferred Writ Petition No.1593/2014, a judgment has been delivered by this Court [Coram : Prasanna B. Varale (as His Lordship then was) and Manish Pitale, JJ.], dated 26/10/2018. It is informed that the view expressed in the said judgment is confirmed by the Hon'ble Supreme Court. It is after delivery of this judgment, that the Resolution No.124, dated 30/12/2020 on Subject No.92 was passed by the Municipal Corporation.

6. We find that the law is now crystallized in view of the judgments of this Court delivered in **Mukhyadhikari Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao, 2015 (5) Mh.L.J. 75** and the judgment delivered by the Larger Bench of this Court in the matter of **Municipal Council, Tirora Vs. Tulsidas Baliram Bindhade, 2016 (6) Mh.L.J. 867**, concluding that proposals of such persons have to be considered by the appropriate authorities and depending upon the vacancies available, deemed dates of permanency/regularization can be granted. Moreover, when this Municipal Corporation has already dealt with identically placed employees, who had also approached the learned Industrial Court and some who had not approached any Court, these petitioners also deserve to be treated in the similar way. Deferential treatment cannot given to these petitioners.

7. The learned Advocate for the petitioners submits that Tarachand Harchand Pawar (W.P. No.780/2023), considering the order passed by this Court on 23/01/2023, desires to approach to the Municipal Corporation as like the above petitioners with a representation.

8. In view of the above, all these petitions are disposed off, with liberty to the petitioners to tender their individual representations along with accompanying documents. The Corporation would consider the said cases in the light of the Resolution No. 124, as like the similarly situated employees. If these individual representations are delivered to the Corporation on or before 28/02/2023, let the exercise as directed above, be concluded on or before 31/05/2023. Thereafter, the Corporation would pass individual orders in each of these cases, justifying its conclusions with reasons.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

sjk