



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2369 OF 2020

Shweta Ramesh Borse,
Residing at Plot No.38, Survey No. 220/A,
Bhairav Colony, Shinde Mala,
Ashok Nagar, Satpur, Nashik

...Petitioner

Versus

1. The State of Maharashtra,
Through the Principal Secretary,
School Education and Sports Department,
Mantralaya Mumbai
2. The Nashik Municipal Corporation,
Through the commissioner,
Having Office at Rajiv Gandhi Bhavan,
Sharanpur Road, Nashik -422 001.
3. The Administrative Officer,
Nashik Municipal Corporation School Board,
New Pandit Colony, Sharanpur Road,
District: Nashik

...Respondents

Mr. Saurabh Pakale a/w. Mr. Abhishek Karnik a/w. Mr. Nilesh Desai i/b. Mr. S. M. Kathar for the Petitioner.

Mr. N. C. Walimbe, AGP for Respondent No.1-State.

Mr. Subhas V. Gutte for Respondent Nos. 2 & 3.

**CORAM : SUNIL B. SHUKRE, AND
FIRDOSH P. POONIWALLA, J.J.**

DATE : 13th SEPTEMBER 2023

ORAL JUDGMENT(Per Sunil B. Shukre J.):-

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. We find that there is already a resolution passed by the General Body of Nashik Municipal Corporation on 20th June 2014 giving its no objection for making over services of the Petitioner as a teacher to the cadre of teachers of Nashik Municipal Corporation.

3. That being so, Nashik Municipal Corporation would be required to give full effect to its own resolution. In fact, by the letter sent on 13th June 2016, the Administrative Officer of Education Department of the Corporation had also sent a communication to the Chief Executive Officer, Zilla Parishad, Nandurbar that the Corporation has granted its approval for making over services of the Petitioner to the Municipal Corporation and it was thereafter, that the Petitioner was relieved from the services of the Zilla Parishad, Nandurbar by its Chief Executive Officer as per the order dated 19th September 2019.

4. With all these facts present on record, the consent and the approval granted to transfer of services of the Petitioner to Nashik Municipal Corporation ought not to have been withdrawn, by a mere officer of the Corporation. If it was to be done, it ought to have been done by the General Body of the Nashik Municipal Corporation, but that is not the case here. Learned Counsel for Corporation invites our attention to a note submitted by one Nagar Sachiv of the Corporation on 19th September 2016 which says that the resolution be withdrawn. But, the resolution

passed by the General Body has not been so far withdrawn, and therefore, now the Corporation will be obliged to give effect to its resolution and also the approval passed by the Administrative Officer, Education Department of the Corporation on 13th June 2016.

5. In this view of the matter we, allow the Petition by issuing following directions:

- i. Respondent No.2 is directed to allow the Petitioner to join the services of Municipal Corporation of Nashik in the Education Department by issuing joining and posting order within the period of two weeks from the date of order.
- ii. We further direct Respondent No.2 to pay the salary to the Petitioner in accordance with the Rules from the date of her joining the services of the Municipal Corporation.
- iii. We further direct the Corporation to fix the salary of the Petitioner and grant consequential benefits in accordance with Rules from the date of her joining the services of the Municipal Corporation.

6. Rule made absolute in above terms. No costs.

7. We grant liberty to the Petitioner to make a suitable representation to the Respondent No.2, seeking grant of benefit of

continuity in service and if such representation is made by the Petitioner, same shall be decided in accordance with Rules, at the earliest.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)