



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 835 OF 2024
IN WP/7590/2022

PRAKASH KAMLAKAR PATHAK
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND OTHERS

....
Mr. A. N. Irpatgire, Advocate for Applicant
Mr. R. S. Wani, AGP for Respondent No.1
....

CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 19.01.2024

PER COURT :-

1. The Petitioner claims to be a former Councillor of the Latur City Municipal Corporation. In his Writ Petition, he has put forth prayer clauses B, C, D, E, F and G, as under:-

“(B) The order issued by the Principal Secretary, Urban Development-2, Govt. of Maharashtra, Mantralaya, Mumbai on 12.05.2022 bearing No.MCO-2020/Case No.79 (Part-2)/UD-14 appointing the Commissioner, Latur City Municipal Corporation, Latur as Administrator may kindly be quashed and set aside by issuing writ of Certiorari or any other appropriate writ in the nature of writ of Certiorari;

(C) The respondent No.1 may kindly be directed to appoint independent Govt. Officer as a Administrator of Latur City Municipal Corporation, Latur by issuing writ of Mandamus or any other appropriate writ in the nature of writ of Mandamus;

(D) The respondent Nos. 2 and 3 may kindly be directed not to take any financial and policy decision and make expenditure other than payment of salary, electricity bill by issuing writ of Mandamus or any other appropriate writ in the nature of writ of Mandamus;

(E) Pending hearing and final disposal of this Writ Petition, the implementation and operation of the order issued by the Principal Secretary, Urban Development-2, Govt. of Maharashtra, Mantralaya, Mumbai on 12.05.2022 bearing No. MCO-2020/Case No.79(Part-2)/UD-14 appointing the Commissioner, Latur City Municipal Corporation, Latur as Administrator may kindly be stayed;

(F) Pending hearing and final disposal of this Writ Petition, the respondent No.2 and 3 may kindly be restrained from exercising the powers and duties as a Administrator of Latur City Municipal Corporation, Latur by issuing an injunction order;

(G) Pending hearing and final disposal of this Writ Petition, the respondent No.2 may kindly be restrained from taking any financial, policy decision and from making any expenditure except payment of salary and electricity bills by issuing an injunction order.”

2. In the Civil Application, he has put forth prayer clauses B, C and D, as under:-

“(B) The respondent Nos. 2 and 3 may kindly be restrained from carrying out the recruitment process and to issue appointment orders in pursuance of advertisement dated 20.12.2023;

(C) The independent officer not below the rank of Revenue Divisional Commissioner may kindly be appointed to regulate the recruitment process in pursuance of advertisement dated 20.12.2023.

(D) The further proceedings in pursuance of the advertisement dated 20.12.2023 issued by respondent Nos. 2 and 3 may kindly be stayed.”

3. After granting sufficient time to the Petitioner to address us, the Petitioner was unable to point out as to whether there is any embargo on a bureaucrat who is the Commissioner of the Corporation, from being appointed as an Administrator. He concedes that there are several posts in the Class-II and Class-III category, which are vacant thereby jeopardizing the day to day working of the Corporation. He is unable to point out that the Administrator/Commissioner is prohibited from resorting to the selection process.

4. The Petitioner submits that he has an apprehension that wrong things may be done by the Administrator/Commissioner, while resorting to the recruitment for 81 posts in the Corporation. On this

apprehension, he submits that the Administrator/Commissioner should not be permitted to carry out the recruitment and any other Government Officer should be appointed.

5. A Writ of Mandamus cannot be issued on apprehensions, which are based on ill founded allegations. There is nothing before us to indicate circumstances by which the Petitioner's apprehension could be substantiated.

6. In view of the above, **this Civil Application stands rejected.**

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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