

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 43 OF 2024

Mahapalika Kamgar Sabha Through General Secretary Shramik Pratishthan Chandani Chowk	}	..Petitioner
V/S.		
Sangli-Miraj-Kupwad Cities Municipal Corporation	}	..Respondent

Mr.Amit Singh *a/w. Mr. Kabeer Pansare i/by. Abhay Nevagi and Associates, for the Petitioner.*

Mr. Kiran S. Bapat, *i/by. Mr. G.H. Keluskar, for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

Dated : 1 APRIL 2024.

P.C. :

1) Petitioner-Union has filed this petition alleging breach of Judgment and Order dated 23 July 2012, which is passed allowing the Writ Petition filed by Respondent-Municipal Corporation by setting aside the Order of the Industrial Tribunal, Sangli to the extent of grant of benefit of permanency to the members of Petitioner-Union. However, while setting aside the order of Industrial Tribunal granting the benefit of permanency, this Court has directed that the members of the Petitioner-Union have right to claim permanency after receiving sanction and/or approval from the Director of Municipal Administration and/or State Government, if the posts are

vacant or there is vacancy or where the posts are created. The present Contempt Petition is filed alleging that there are several vacancies against which members of the Petitioner-Union can be made permanent and that non-grant of permanency to them, despite existence of vacancies, amounts to breach of order passed by this Court on 23 July 2012.

2) I have heard Mr. Singh, the learned counsel appearing for the Petitioner and Mr. Bapat the learned Senior Advocate appearing for the Respondent-Municipal Corporation.

3) Mr. Singh would submit that that originally the complaint before the Industrial Tribunal was being prosecuted on behalf of 41 daily/casual workers, most of them have retired and now the Contempt Petition is being prosecuted on behalf of 13 workers, who are still in service and who awaiting grant of permanency. He would submit that there are as many as 900 posts vacant in the Municipal Corporation, despite which regularisation is being denied to the members of the Petitioner-Union. He would submit that by Government Resolution dated 14 February 2023, 1114 new posts are created in Sangli-Miraj Kupwad City Municipal Corporation. He would submit that the Respondent-Municipal Corporation must obey the direction of this Court by granting permanency to Petitioner immediately after availability of vacancies.

4) *Per-contra*, Mr. Bapat would submit that the Judgment and Order dated 23 July 2012 is under challenge before the Division Bench of this Court, both by Municipal Corporation and by the Petitioner-Union by filing

Letters Patent Appeals No.203 of 2012 and 316 of 2012. That both the Appeals have been admitted by this Court by Order dated 10 January 2013. That the Division Bench has directed that injunction could be granted to the limited extent of restraining the Municipal Corporation from terminating the services of the concerned employees without following due process of law. He would therefore submit that since the Judgment and Order dated 23 July 2012 is under challenge before the Division Bench, there is no question of grant of permanency to the members of the Petitioner-Union during pendency of Letters Patent Appeals. Without prejudice, Mr. Bapat would submit that the Municipal Corporation has adopted a Resolution and sent a proposal to the State Government for regularisation of 367 badli workers, 16 daily workers and 970 workers on honorarium and that the proposal is pending consideration before the State Government. That one more proposal dated 4 January 2024 is sent for creation of 1280 supernumerary posts for absorption of 1280 badli/daily/honorarium based employees which again is pending.

5) I have considered the submissions of the learned counsel appearing for the parties. Judgment and Order dated 23 July 2012, of which contempt is alleged, is challenged both by Petitioner-Union as well as Municipal Corporation before the Division Bench by filing Letter Patent Appeals. In Letter Patent Appeals filed by the Petitioner-Union, Civil Application No. 369 of 2012 was filed seeking various interim reliefs. The prayers in the said Civil Application included prayer for stay of the Judgment to the extent of setting aside the relief of permanency granted by the

Industrial Court, stay on termination, stay on filling up 32 vacant posts and direction for deposit of wages as per the Award of the Industrial Court. This Court has disposed of Civil Application No. 369 of 2012 by Order dated 10 January 2013, when the Petitioner-Union did not press the prayer for stay of Judgment dated 23 July 2012 and for deposit of wages. The Union only pressed prayer clauses (b) and (c) relating to termination and stay on filling up 32 posts. This Court only granted stay on termination without following due process of law. So far as prayer for stay on filling up 32 permanent posts are concerned, the said prayer is rejected by Division Bench of this Court dated 10 January 2013. Thus, in accordance with the Order dated 10 January 2013, the Municipal Corporation is permitted to fill up vacant sanctioned posts without considering the claims of members of Petitioner-Union during pendency of Letter Patent Appeals. For the last 11 long years, the Municipal Corporation has accordingly filled up various vacancies that occurred on its establishment without considering the claims of members of Petitioner-Union. I therefore do not see any reason why the Petitioner-Union can raise a claim for breach of Order dated 23 July 2012 on account of non-grant of permanency to its 13 members against available vacant posts. Such vacancies have arose in the past during 11 long years after 10 January 2013 and the same have been filled up without considering the claims of members of Petitioner-Union. Therefore, the allegation of breach of Order dated 23 July 2012 at this distant point of time cannot be sustained especially in the light of interim order dated 10 January 2013 passed by the Division Bench in Civil Application No. 369/2012 filed in Letter Patent Appeal No.203/2012. I am therefore of the view that Respondents have not committed any breach of

the Judgment and Order dated 23 July 2012, which is subject matter of challenge before the Division Bench in pending Letter Patent Appeals. It would be open for the Petitioner-Union to move appropriate application before the Division Bench which is in sesin of the pending Letter Patent Appeals and seek appropriate orders. With the above observations, the Contempt Petition is closed and disposed of.

[SANDEEP V. MARNE, J.]

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