

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10483 OF 2024

1. Pune Municipal Corporation

Through the Municipal Commissioner

2. Social Development Department

Through Head of Department,

Dy. Commissioner, Pune Municipal

Corporation

}*Petitioner*

: Versus :

1. Ms. Anagha Dhananjay Thuse

}*Respondent*

Mr. Rishikesh M. Pethe, for the Petitioner.

Mr. Anurag Jain, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 22 August 2024.

P.C. :

1) By this petition, Pune Municipal Corporation has challenged the order dated 28 March 2024 passed by the Member, Industrial Court, Pune on Application at Exhibit-U-18 filed in Complaint (ULP) No.69/2023. By the impugned order, the Industrial Court has directed the Municipal Corporation to allow the Respondent-complainant to sign the muster roll till decision of the Complaint.

2) I have heard Mr. Pethe, the learned counsel appearing for the Petitioner-Pune Municipal Corporation and Mr. Jain, the learned counsel appearing for the Respondent-Complainant.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, there appears to be no dispute to the position that the Complainant was initially engaged as 'Samuh Sanghatika' on 4 October 2004 and continued to work intermittently with few artificial breaks as 'Samuh Sanghatika' till 23 January 2019. It appears that an advertisement was issued by the Municipal Corporation for filling up the post of 'Project Coordinator', which apparently carries higher remuneration than the post of 'Samuh Sanghatika'. The Complainant tried her luck and applied in pursuance of the advertisement for engagement as 'Project Coordinator'. After being selected, she was engaged as 'Project Coordinator' on 3 June 2019 and continued to work on the post of 'Project Coordinator' till 10 November 2021. While the Complainant continued on a higher post as Project Coordinator, it appears that the Municipal Corporation forwarded a proposal to the State Government on 29 September 2021 for creation of 187 posts in the Social Development Department which included creation of 90 posts of 'Samuh Sanghatika'. The proposal was apparently accepted by the State Government and about 83 persons working as 'Samuh Sanghatika' came to be absorbed in the municipal service. Unfortunately, the Complainant got left out in this exercise on hyper technical ground that as on the date of signing of the said proposal, she worked on different post of 'Project Coordinator'. There is no dispute to the position that after her brief stint as 'Project Coordinator' between 3 June 2019 to 11 November 2021, Petitioner has been subsequently re-engaged as 'Samuh Sanghatika' from 11 November 2021 onwards.

4) It is in the light of the above factual background that the Complainant felt aggrieved by the action of the Municipal

Corporation in not absorbing her in service as 'Samuh Sanghatika' and have accordingly filed Complaint (ULP) No.69/2023 before the Industrial Court.

5) The Industrial Court passed interim order on application at Exhibit-U2 on 14 July 2023 restraining the Petitioner-Municipal Corporation from terminating her services without following due process of law. The Municipal Corporation apparently misconstrued the order of the Industrial Court as a license not to renew her appointment as 'Samuh Sanghatika' after the same came to an end on 7 January 2024. On account of her non-continuation as 'Samuh Sanghatika', Complainant was required to file Application at Exhibit-U18 seeking direction for her continuation as 'Samuh Sanghtika'. The Industrial Court has allowed the application at Exhibit-U-18 by directing the Petitioner-Municipal Corporation to permit the Complainant to sign the muster roll till decision of the complaint. The order dated 28 March 2024 is subject matter of challenge in the present petition.

6) If the above factual background is taken into consideration, *prima-facie*, it is seen that the Complainant has made out a case for her possible absorption in service as 'Samuh Sanghatika'. Just because her services were utilised for a brief stint from 3 June 2019 to 10 November 2021 as 'Project Coordinator', the same *prima-facie* does not appear to be a valid ground for not absorbing her on the post of 'Samuh Sanghatika'. Though Mr. Pethe has sought to place reliance on judgment of Division Bench of this Court in **Municipal Council, Tirora V/s. Tulsidas Baliram Bindhade¹**, reliance on the said judgment, far from assisting the

¹ 2016(6)Mh.L.J. 867

case of the Petitioner-Municipal Corporation, actually militates against it. The judgment in ***Municipal Council, Tirora*** has been considered by the learned Single Judge of this Court (Ravindra Ghuge, J.) in ***Raigad Zilla Parishad V/s. Kailash Balu Mhatre & Ors.***² in which this Court directed sending of proposal by Zilla Parishad to State Government for creation of posts in respect of those employees who continue to work for a long period of time. Infact, the action of Pune Municipal Corporation in sending the proposal to the State Government infact appears to be in tune with the judgment of Division Bench of this Court in ***Municipal Council, Tirora*** and of learned Single Judge of this Court in ***Raigad Zilla Parishad***. Infact, it appears that the Municipal Corporation after appreciating the grievance of the Petitioner has send a fresh proposal dated 28 February 2024 to the State Government for her absorption in service. This is yet another reason why her services cannot be discontinued during pendency of the petition.

7) In my view, therefore as of now, *prima-facie* case exists in favour of the Complainant for absorption in municipal service. Therefore, there is no reason why her services should be discontinued so as to frustrate her claim in Complaint (ULP) No.69/2023. The order passed by the Industrial Court on 28 March 2024 appears to be in aid of final relief sought in the complaint. I do not find any palpable error in the order passed by the Industrial Court. I am informed that though the order is passed on 28 March 2024, the Municipal Corporation has not yet implemented the same possibly on account of pendency of the present petition. In that view of the matter, Petitioner-Municipal Corporation shall ensure that the

² 2022 (4) BCR 322

Complainant is permitted to join the duties on/or before 30 August 2024.

8) With the above observations, the Writ Petition is **disposed of.**

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[SANDEEP V. MARNE, J.]