

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6897 OF 2024
IN
WRIT PETITION NO. 12074 OF 2023

The Municipal Corporation Of Greater Mumbai ...Applicant

In case between:

Swapnil Kisan Patil ...Petitioner

Versus

The Municipal Corporation Of Greater Mumbai
And Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 6894 OF 2024
IN
WRIT PETITION NO. 15780 OF 2023

WITH
INTERIM APPLICATION NO. 6895 OF 2024
IN
WRIT PETITION NO. 12317 OF 2023

WITH
INTERIM APPLICATION NO. 6900 OF 2024
IN
WRIT PETITION NO. 12318 OF 2023

WITH
INTERIM APPLICATION NO. 6902 OF 2024
IN
WRIT PETITION NO. 16761 OF 2023

WITH
WRIT PETITION NO. 16764 OF 2023

In Writ Petition No. 12074 of 2023 with IANo. 6897 of 2024
Mr. Wasim Samlewale along with Ms. Priyanka Babar, Advocates for
Petitioner.

Mrs Pooja Joshi Deshpande – AGP for Respondent – State in all
Petitions.

Mr Tejas Deshmukh alongwith Mr Suhas S Deokar Advocate for
Respondent No. 4.

Mr Amit A Karande Advocate for R No. 5.

Mr Ashutosh A Kumbhakoni – Sr Advocate alongiwith Mr Ashutosh
Kulkarni and Mr Siddharth Shitole Advocates for Respondent –
MPSC in all Petitions.

Mr A V Bukhari, Senior Advocate alongwith Mr Burhan Bukhari
And Mr R Y Sirsikar Advocates for Respondent – MCGM in above
all Petitions.

Ms Swati Lalit – A.O., M.P.S., BMC is present in Court.

In Writ Petition No. 15780 of 2023 with IA No.6894 of 2024

Mrs Vaishali Jagdale Advocate for the Petitioners.

Mr Suhas S Deokar Advocate for R No. 4.

In Writ Petition No. 12317 of 2023 with IA No.6895 of 2024

Mr Mihir Desai, Senior Advocate i/by Ms Devyani Kulkarni
Advocate for the Petitioner.

Mr Vaibhav Bajpai alongwith Sanjay Bajpai i/by Bajpai And
Associates for R No.3.

In Writ Petition No. 12318 of 2023 with IA No. 6900 of 2024.

Mr Mihir Desai, Senior Advocate i/by Ms Devyani Kulkarni
Advocate for the Petitioner.

Mr Vaibhav Bajpai alongwith Sanjay Bajpai i/by Bajpai And
Associates for R No.3.

Mr KaranGajra with Mr Daksha Punghera i/by Desai Legal Advocate
for Respondent No.5.

Mr C K Tripathi Advocate for R No.4.

In Writ Petition No. 16761/2023 with IA No.6902 of 2024

Mr V D Salunke Advocate for the Petitioners.

Mr Tejas Deshmukh alongwith Mr Suhas S Deokar Advocate for Respondent No. 4.

Mr Amit A Karande, Advocate for Respondent No.5.

Mr Nikhik Waje i/by Jayakar Partners for Respondent No.10.

In Writ Petition No.16764 of 2023

Mr Ajay S Deshpande Advocate for the Petitioners.

Mr Arshad Shaikh, Senior Advocate i/by Mr V S Kapse Advocate for R No. 3.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 16 APRIL 2024

P.C.:

1. Writ Petition No. 963 of 2024 is not on board. Taken on board.

2. Heard learned counsel for the parties.

3. Interim Application No. 6897 of 2024 is taken out by the Municipal Corporation. Learned counsel for Petitioners states that the writ petition is taken up for hearing. In this interim application, the Municipal Corporation has sought the following prayer.

a) That this Hon'ble Court be pleased to order/ direct the Respondent Maharashtra Public Service Commission to recommend the names of the successful candidates as per their recommendation list as expeditiously as possible

within a period of 15 days, enabling this Applicant to appoint them to the post of Asst. Municipal Commissioner.”

4. The learned counsel inform us that only in Writ Petition No. 16764 of 2023 (transferred Writ Petition No. 15264 of 2023 from Aurangabad Bench), a restraint order is passed on 13 December 2023 by this Court directing that in respect of one post, the MPSC should keep the recommendation of the contesting Respondent in abeyance and one post which the contesting Respondent is likely to occupy, if recommend, shall not be filled in. There is no such restraint order in other petitions. There are six Petitions before us. One is sought to be produced. Therefore, there are seven Petitions before us as on today.

5. There are 16 posts to be filled up. Though there is no restraint order against the Municipal Corporation and since the Petitions are pending, the Municipal Corporation has moved these interim applications for direction by way of caution. We note that because of this litigation in the concerned Municipal Corporation, the posts of Assistant Commissioner which are necessary for the functioning of the city are not being filled up. At the same time, we need to safeguard the interest of the Petitioners, therefore, keeping in mind the restraint order passed in one of the Petitions, we permit the Municipal Corporation to proceed, however to follow the same methodology as adopted in the decision of the Division Bench of this Court in Writ Petition No. 15264 of 2023.

6. As regards the Petitioners before us and the rest of the posts, the Maharashtra Public Service Commission and the Municipal Corporation can take further steps.

7. If the issue of seniority arises, that would be subject to the outcome of these petitions.

8. List the Petitions on board on **6 May 2024** at 3.30 p.m.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)