



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

30 WRIT PETITION NO. 7693 OF 2025

**BALAJI GOVINDRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS**

.....
Advocate for the Petitioner : Ms. Shinde Priyanka Prakash
AGP for Respondents/State : Mr. S.P. Sonpawale
Advocate for Resp. Nos.2 to 4 : Mr. R.K. Ingole
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**CORAM : MANISH PITALE &
Y.G. KHOBRAGADE, JJ.
DATE : 8th September, 2025**

P.C. :-

1. The Petitioner has approached this Court seeking implementation of resolution no.43 passed by the Standing Committee of the Respondent/ Nanded Waghala Municipal Corporation as also setting aside of a communication dated 29.07.2022 issued by the Respondent No.4/Deputy Commissioner of the said Municipal Corporation. By the said communication, the Respondent No.4 had approached the Respondent No.1 i.e. the Principal Secretary, Urban Development Department, State of Maharashtra for exercising power under Section 451 (1) of the Maharashtra Municipal Corporations Act, 1949, to rescind the resolution of the Standing Committee of the Corporation.

2. The learned counsel for the Petitioner submits that the present petition deserves to be allowed for the reason that the Standing Committee of the Respondent/Municipal Corporation by the aforementioned resolution dated 29.07.2017 had held that the penalty imposed on the Petitioner of withholding of two increments has to be withdrawn and that the period of suspension of the Petitioner has to be treated as regular service. This resolution was passed unanimously and that it must be implemented in the interest of justice.

3. The Respondent/Authorities of the Municipal Corporation i.e. the Respondent Nos.2 to 4 have filed a reply affidavit simply stating that since the impugned communication dated 29.07.2022 was addressed by the Respondent No.4/Deputy Commissioner of the Municipal Corporation to the State under Section 451 of the aforementioned Act and the same is pending, no relief can be granted to the Petitioner.

4. Considering the admitted facts of the present case, we find that the approach of the Respondent/Municipal Corporation is wholly arbitrary. It is an admitted position that the Standing Committee of the Respondent/Municipal Corporation itself, by a resolution passed on 29.05.2017 i.e. more than eight years ago in favour of the Petitioner. As a consequence, he was entitled for the restoration of the two annual

increments and also the period of suspension being treated as regular service.

5. Admittedly, after more than five years, on 29.07.2022, the Respondent No.4/Deputy Commissioner merely sent a communication to the Respondent No.1. i.e. the Principal Secretary, Urban Development Department seeking that power be exercised under Section 451(1) of the aforementioned Act to rescind the resolution of the Standing Committee dated 29.05.2017. Admittedly, there is no response to the said communication.

6. A perusal of Section 451 of the said Act shows that the Respondent No.4 could perhaps have approached the Respondent/State either within 30 days or at least within reasonable period of time, if there was any seriousness in seeking the resolution dated 29.05.2017 to be rescinded. The Respondent No.4/Deputy Commissioner of the Municipal Corporation sent the said communication after more than five years on 29.07.2022 and hence, we are of the opinion that the said communication cannot be the basis to deprive the Petitioner of the benefits of the said resolution of the Standing Committee. In any case, the Respondent No.1/State has not even responded to the said communication and therefore,

there is no substance in the stand taken on behalf of the contesting Respondent Nos.2 to 4.

7. In view of the above, we hold that the present petition deserves to be allowed in terms of prayer clauses-B and C.

8. Accordingly, the Writ Petition is allowed in terms of prayer clauses-B and C, which read as follows:

“B. By issuing appropriate writ, order or direction in the like nature, the impugned communication dated 29.07.2022 issued by respondent No.4 may kindly be quashed and set aside and for that purpose necessary directions be issued.

C. By issuing appropriate writ, order or direction in the like nature, respondent no. 2, 3 and 4 may kindly be directed to implement the Resolution no. 43 dated 29.05.2017 passed by the standing committee forthwith and disburse the arrears with interest and for that purpose necessary directions be issued.”

9. The Respondent/Municipal Corporation shall now pay the resultant financial benefits to the Petitioner within a period six weeks from today.

[Y.G. KHOBRAGADE, J.]

[MANISH PITALE, J.]