



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3930 OF 2022

Pravin S/o. Prabhakar
Deshpande, Aged about 52
years, Occ. Nil, R/o. 100,
Pushp-Prabha, 1st Floor,
Bajoriya Nagar, Yavatmal.

.... **PETITIONER**

// VERSUS //

1. State of Maharashtra,
Through its Secretary for Urban
Development Department,
Mantralaya Mumbai-32.

2. Secretary, Rural Development
Department Mantralaya,
Mumbai -32

3. Commissioner/Director,
Municipal Council
Administration Directorate,
Government Transport Services
Building, 3rd Floor, Sir
Pochkhanwala Marg, Warli,
Mumbai (East).

4. The Divisional Commissioner
/Regional Director, Municipal
Administration, Amravati
Division, Amravati.

5. The Zilla Parishad,
Yavatmal, Through Chief
Executive Officer, Yavatmal.

6. The Municipal Council,
Yavatmal, Through its Chief
Officer, Yavatmal.

7. Collector,
Yavatmal, Distt. Yavatmal.

.... **RESPONDENTS**

Shri Sandeep Marathe, Advocate for petitioner.
Shri M.K.Pathan, AGP for respondent nos. 1 to 4 & 7/State.
Shri R.D.Bhuibhar, Advocate for respondent no. 5.
Shri V.D.Dame, Advocate for respondent no. 6.

**CORAM : SMT. M.S. JAWALKAR &
PRAVIN S. PATIL, JJ.**

DATE OF RESERVING THE JUDGMENT : 01/07/2025
DATE OF PRONOUNCING THE JUDGMENT: 29/07/2025

JUDGMENT (PER: SMT. M.S. JAWALKAR, J.)

Heard finally by consent of learned Counsel for the
respective parties.

2. Being aggrieved by the order dated 15/01/2022
passed by the Commissioner-cum-Director, Municipal Council
Administration Directorate whereby, the petitioner's request for
his absorption in Municipal Council, Yavatmal establishment got
rejected. The petitioner challenges the impugned order as the
same is cryptic, unreasoned and without considering the grounds

raised by the petitioner in the memo of Writ Petition No. 5457/2018.

3. On 01.03.2014, the petitioner was appointed in Wadgaon Road Gram Panchayat as a Civil Engineer. The Gram Panchayat by its Resolution dated 25.10.2015 regularized his services. In the list of 218 employees, the name of petitioner was shown as a confirmed employee. On 27.02.2018, the petitioner worked with Municipal Council for near about 26 months. For the reason of non-payment, the petitioner and other 171 employees started agitation and this issue came to be raised in the Legislative Assembly of Maharashtra vide Starred Question No. 38290. On 13.03.2018, the State Government issued direction to absorb these employees on existing posts and the employees who were appointed subsequent to 25.03.2015 may be transferred to Zilla Parishad, Yavatmal. On 31.07.2018, the Chief Officer, Municipal Council, Yavatmal transferred 98 employees to Zilla Parishad Establishment, Yavatmal. The petitioner's name got erroneously included in the said list. On 04.08.2018, the Chief Executive

Officer, Zilla Parishad, Yavatmal refused to accept the petitioner and other 98 employees on Zilla Parishad Establishment.

4. The petitioner further submitted that, the Chief Officer had neither given show cause notice nor opportunity of hearing before including his name in the list of 98 employees. If the State Government had directed to transfer 86 employees to Zilla Parishad Yavatmal, the Chief Officer has no reason to increase the number of employees and unlawfully include petitioner's name in the list showing him daily wage.

5. On the contrary, the respondent no. 6 submitted that, this is a second round of litigation of the present petitioner, earlier the petitioner had filed the Writ Petition No. 5457/2018. The petitioner is claiming that, he is a civil engineer and he was appointed in Wadgaon Road Gram Panchayat as a Civil Engineer from 01/03/2014 on contractual basis but it is a submission of the respondent No. 6 that, the village panchayat has no authority to appoint the Engineer in their service. The municipal limit of the Municipal Council, Yavatmal was extended and due to which, the

adjoining 7 gram panchayats were absorbed in the municipal limit of Yavatmal Nagar Parishad. Therefore, due to the said merge of the gram panchayat, employees of the gram panchayat were to be regularized in the services of Municipal Council, Yavatmal. The petitioner was appointed on contractual basis to the Wadgaon Road Village Panchayat. The respondent no. 1 took the hearing in accordance with the said issue and accordingly, on 13/03/2018, out of 213 employees, 86 candidates were not eligible as their appointments were after notification.

6. Further it is submitted that, the 86 candidates had moved representation to the State Minister of Urban Development to verify the legality and eligibility of the candidates as their appointments were questioned for the reason that they were appointed after notification and accordingly, the record to examine by the committee appointed by the respondent no.1. It is clear from the record that, the said 98 candidates are not eligible as per the notification of extension. It is submitted that, out of 98 candidates, 82 candidates had filed the Writ Petition No.

5457/2018 before this Court and this Court has directed to the respondent No. 3 to decide the representation. The respondent no. 3 has given a finding that there is no policy decision of the Government to absorb the village panchayat employee after the preliminary notification. It is submitted that, as per the rules and seniority, the Divisional Commissioner and Director of Municipal Administration shorted the list and those who are qualified for the employment of Municipal Council from the village Panchayat, they are absorbed and those who are not qualified, they have been terminated.

7. It is contended by respondent no. 3 that, the services of the petitioner cannot be absorbed in the establishment of the Municipal Council, Yavatmal as it is not in consonance with the provisions of Government Resolution dated 05.07.2016, issued by the Urban Development Department of the State of Maharashtra. It is further submitted that, the petitioner and the other 81 petitioners in Writ Petition No. 5457/2018 were aware that their services were continued in the Yavatmal Municipal Council. In a

conditional manner and later on, this continuation was not approved by the answering respondent. The scope of judicial review in the policy matters of the State Government, which is in the form of a Government Resolution in the present case, is no longer *res integra*. The State Government has declared the preliminary Notification on 25.03.2015, whereby the cut off date for absorption of the services of the employees of the earlier Gram Panchayats into the Municipal Councils, was fixed as 25.03.2015.

8. The respondent no. 6 further submitted that, according to the petitioner's information which he was received from the record of Gram Panchayat, the persons were appointed by the Village Panchayat in the year of 2010 and 2013 and in 2013, the said area was not merged in the Municipal Council and the notification for the merger of the village panchayat into Municipal Council is on 25/03/2015 and final notification is on 22/01/2016, hence, all the appointments were before the notification of the merger.

9. In rejoinder, the petitioner submitted that before the

merger to municipal limits, respondents have not given any notice to the Wadgaon Gram Panchayat refraining it from taking any policy decision or to recruit any employee, so respondents have no authority to judge any event with respect to date of proclamation. His appointment is not in question, but discrimination made is on the date of proclamation, which is irrelevant. In fact, G.R. dated 05.07.2016, which respondents are applying to the petitioner's case is subsequent to proclamation dated 15.03.2015, it will not have retrospective effect. The petitioner further submits that, after his appointment on 26.04.2014, the service book got prepared. In his service book, entry of his regulation is taken. The petitioner got absorbed in January, 2016 in the Municipal Council at Yavatmal and he was allotted various important works related to planning sanction and development under implementation of Government Schemes. He worked for 31 months. When the petitioner and other employees raised demand for payment of salaries, Chief Officer M.C. Yavatmal deliberately included petitioner's name in the list of 98 employees whose services to be terminated and handed over to Z.P Yavatmal. The Municipal

Council has not given him opportunity of hearing.

10. The respondent no. 5 submitted that, it has been further claimed by the Petitioner that, after extension of the Municipal limits as per the aforesaid Notification issued by the State Government, the Chief Officer of Municipal Council, Yavatmal on 13.05.2016 issued an absorption letter to the employees of Gram Panchayats including the petitioner. The said communication that in the event of the appointment of such employees was found to be made without following the due process of law with the further rider that in the event of the approval for such appointment being rejected by the Directorate, Municipal Council Administration, Mumbai i.e. the Respondent No.3, the services of such employees would be terminated.

11. It is further submitted that, for the purposes of absorption of the employees in eight Gram Panchayats, a three Member Committee was constituted. The aforesaid Committee in its report had mentioned about the list which comprised of 218 employees working in the said Gram Panchayats on the date of

first Proclamation in which the name of the Petitioner was shown as confirmed employee at serial No. 70. It is further submitted that, as per Clause 6 of the G.R. dated 05.07.2016, the services of only permanent Gram Panchayat employees working in the concerned Gram Panchayats before the date of issuance of the first Proclamation for extension of Municipal Council limits can be absorbed in the services of the Municipal Council or Nagar Panchayat. The fixation of cut off date to be the date of issuance of first Proclamation regarding extension of Municipal Council limits has a direct nexus with the object sought to be achieved and therefore, it cannot be said that fixation of the cut off date in the aforesaid G.R. is irrational and arbitrary. It is pertinent to mention here that, in the Rules, Regulations and the Act by which the answering Respondent No.5 is governed and regulated there is no provision regarding absorption of Gram Panchayat employees in the manner in which the absorption is sought for. Further, the answering Respondent No.5 cannot appoint Class-III and Class-IV employees in its establishment without the approval of the State Government. As such, the absorption of the Gram Panchayat

employees including the petitioner in the establishment of the answering respondent No. 5 will be in the nature of the back door entry which is impermissible in law.

12. It was contended by respondent nos. 4 and 7 that, the appointments made after notification dated 25/03/2015 is not valid, thus those employees have not been absorbed, same as the case in Writ Petition No. 5457/2018, this petition is also liable to be dismissed.

13. Heard all the parties at length.

14. It appears that, in the earlier round of litigation i.e. Writ Petition No. 5457/2018, the present petitioner and others contended that, they were engaged as casual workers by the different Gram Panchayats and there was a resolution passed by the Municipal Corporation, Yavatmal in its meeting held on 2nd February, 2016, regarding their absorption in Municipal Council, Yavatmal following merger of the Gram Panchayats into Municipal Council area due to increase in the territorial limits of the

Municipal Council, subject to the conditions mentioned therein and yet, the petitioners are not being absorbed by the Municipal Council, Yavatmal. It was contended by the petitioner(s) that, the reliance placed by the Municipal Council, Yavatmal on the Government Resolution dated 05/07/2016 is misplaced. It was submitted that, well before the Government Resolution was issued, decision regarding their absorption in Municipal Council, Yavatmal was taken and even appointment orders though conditional, were issued to the petitioners, which facts have made the petitioners as temporary employees of the Municipal Council, Yavatmal and therefore, they are entitled to be absorbed in regular service of Municipal Council, Yavatmal. In the said Writ Petition, vide order dated 05/10/2021, this Court directed to the appointment authorities to decide the representation, in accordance with law. In pursuance to the order of this Court, the Commissioner/Director, Municipal Council Administration Directorate, Mumbai took a decision on 15/01/2022. The said representation came to be rejected on the ground that, in view of Clause-6, those employees who were in permanent service in

Gram Panchayat before the issuance of first notification of converting the Gram Panchayat into Nagar Parishad/Nagar Panchayat, are to be absorbed. Admittedly, first proclamation issued on 25/03/2015 and service of the petitioner came to be regularized on 28/10/2015 by Gram Panchayat, Wadgaon Panchayat Samiti, Yavatmal. In view of this, the representation came to be rejected. Our attention is drawn to Section 61-A of the Maharashtra Village Panchayats Act, 1959 (for short, “Act of 1959”), wherein it is mentioned as under:-

*“61A. (1) Notwithstanding anything contained in this Act, taking into consideration the population, income and potential of the panchayat and such other factors as may be prescribed, the State Government shall, by notification in the Official Gazette, direct that a panchayat or a group of panchayats may **engage** experts, technical support agencies and skilled manpower **on contract or on consultancy basis** for conceiving, preparing, executing, operating, managing, maintaining and supervising the panchayat Development Plan, Land Development Plan and Environmental Development Plan for planned growth of the panchayat as well as the Livelihood and Employment Development Plan, Physical and Social Infrastructure Development Plan and other related activities to develop such panchayats or group of panchayats as growth centres.*

(2) The experts, technical support agencies and skilled manpower engaged under sub-section (1) shall be from a panel prepared by the officer authorised by the State Government in this behalf, and the persons so engaged shall possess such qualifications and experience and shall be engaged on such terms and conditions as may be prescribed.

(3) The State Government may, direct such panchayats or group of panchayats to allocate such portion of funds from any scheme, project, programme or work sponsored by the State Government or the Central Government, as permissible, or from Village Development Fund or other own sources of the panchayats or group of panchayats which shall be utilised for engaging such persons.”

15. As such, no technical post can be filled in by the Gram Panchayat by making any independent appointment. Thus, the appointment itself is *void ab initio* of the petitioner. Moreover, he was regularized after first proclamation. The name of the petitioner was included by the first proclamation dated 25/03/2015. In view of the order dated 31/07/2018, it was made clear that, his appointment in the Gram Panchayat if not found as per the Government Resolution and if there is no approval by the Commissioner/Director, Municipal Council Administration Directorate, Mumbai, would be cancelled, and if found that the

appointment thereafter on 25/03/2015 or regularized after first proclamation or regularized after the date referred above.

16. Thus, there is no substance in the petition, even if challenge to Clause 6, Sub-Clause (1) of the G.R. dated 5/7/2016, we do not find any legality for fixing the criteria for absorption of the employees of the Gram Panchayat as irrational or arbitrary. Admittedly, the date of regularization in case of petitioner i.e. 28/10/2015 is subsequent to first proclamation i.e. 25/03/2015, his service cannot be absorbed in Municipal Council, Yavatmal or Zilla Parishad, Yavatmal. Moreover, the Gram Panchayat has no jurisdiction to appoint the person on technical post in view of Section 61-A of the Act of 1959. As such, there is no merit in the petition and the petition is liable to be dismissed.

17. Accordingly, petition stands **dismissed**.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)