

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

PUBLIC INTEREST LITIGATION NO. 219 OF 2013

Vihar Durve	}	Petitioner
versus		
State of Maharashtra and Ors.	}	Respondents

Mr.N.R.Bubna for the petitioner.

Ms.N.M.Mehra-AGP for State.

Mr.Netaji Gawade i/b. M/s.Sanjay Udeshi and Co. for respondent no.2.

Mr.Parag Vyas with Ms.Anamika Malhotra for respondent no.3.

Ms.Vijaya K. Rahatkar-Chairperson present.

Mr.Smita Nivatkar-Deputy Secretary and
Mr.Ravindra Jasande-Under Secretary, Women and
Child Development Department present.

Dr.Manjusha Molwane-Deputy Secretary, State
Commission for Women present.

**CORAM :- S. C. DHARMADHIKARI &
R. I. CHAGLA, JJ.**

DATED :- JANUARY 22, 2020

P.C. :-

1. Heard both sides.

2. After the earlier order, it is stated that some steps have been taken. Ms.Mehra learned AGP says that the State will initiate the

process of appointing the Chairperson to the Maharashtra State Women Commission. The present Chairperson is Ms.Vijaya Rahatkar. She has not demitted office. Though she is aware that this office is held by her at the pleasure of the Government and that she was appointed under the erstwhile political dispensation, she is yet to demit office or resign from the post.

3. We expect the learned AGP to apprise all concerned of the position in law that the Chairperson cannot continue and hold the office when the present political dispensation is keen to appoint a Chairperson of its choice. We expect that before the next date we will be informed about the appointment of the new Chairperson.

4. We are also anxious to know as to why the proposal to appoint two members as Counsellors is pending and the appointment to other posts is requiring intervention of the court. We hope and trust that the department concerned, particularly the Department of Women and Child Development, Government of Maharashtra would take the requisite measures and ensure that the Commission works in its full strength in the interest of particularly the women in the State.

5. We are disturbed by the fact that from the date of institution of such PILs i.e. from the year 2012/2013, every aspect of

executive governance is virtually taken over by this court. It is not the job and function of this court to ensure that bodies like the Maharashtra State Women Commission function and work smoothly and effectively in order to fulfill the object and purpose of establishing them. We find that none of the political dispensations till date in power have realised that it is not the function and job of this court to make appointments or to remove the appointed persons, if they have lost trust and confidence after the change in the political dispensation. It is entirely for the State machinery to take a call. We have been noticing that virtually every wing and department of the Government is before this court defending one PIL or the other. We have noticed that the Department of Women and Child Development together with the Department of Tribal Development, the Department of Social Justice, the Department of Housing and Special Assistance are notorious for their inaction and regularly before this court. It is for the persons heading these departments to realise that something serious has to be done to avoid litigation for that results in wastage of time of the departmental officials. They have to consult and discuss the matters with superiors and Government advocates, attend the court hearings, file affidavits and compliance reports, all of which is avoidable. All this does not come free for the public has to spend from its pocket on the salaries and expenses incurred by the State

insofar as these visits and other expenses incurred by the concerned departmental functionaries. We hope and trust that the present political dispensation has realised its responsibilities and would not avoid fulfilling them.

6. Stand over to 5th February, 2020.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)