



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

WRIT PETITION NO. 3377 OF 2007

1. Smt. Ranjana Prakashrao Kurundkar,
Age: 40 yrs., Occ : Service,
R/o Nandapur, Tq. Kalamnuri,
Dist. Hingoli.
2. Smt. Devata Shalikgram Hivrle,
Age: 35 yrs., Occ : Service,
R/o At Durgsawangi, Post. Bhattsawangi,
Tq. & Dist. Hingoli.
3. Smt. Babitai Sudam Wadhawe,
Age: 38 yrs., Occ : Service,
R/o At Post Hatta, (Naik) Tq. Sengaon,
Dist. Hingoli.
4. Smt. Sumitra Baliram Thengade,
Age: 38 yrs., Occ: Service,
R/o At Post Basamba,
Tq. & Dist. Hingoli.
5. Smt. Indubai Baburao Narwade,
Age: 39 yrs., Occ: Service,
R/o Kandali, Tq. Kalamnuri,
Dist. Hingoli.
6. Smt. Rajeshri Kamlakar Patange,
Age: 38 yrs., Occ: Service,
R/o At Renapur, Post: Hingani,
Tq. Kalamnuri, Dist. Hingoli.
7. Smt. Nirmala Kashinath Chavan,
Age: 39 yrs., Occ: Service,
R/o At Post Kanergaon Naka,
Tq. & Dist. Hingoli.
8. Smt. Ekadashi Nagorao Dhokane,
Age: 32 yrs., Occ: Service,
R/o At Post Bolda, Tq. Kalamnuri,
Dist. Hingoli.
9. Smt. Pramila Vasantrao Ankushkar,
Age: 37 yrs., Occ: Service,

R/o At Post Goregaon, Tq. Sengaon,
Dist. Hingoli.

10. Smt. Sheela Madhavrao Dodal,
Age: 39 yrs., Occ: Service,
R/o Shashtri Nagar, Kalamnuri,
Dist. Hingoli.
11. Smt. Lata Sopan Pradhan,
Age: 40 yrs., Occ: Service,
R/o At Post Nandapur, Tq. Kalamnuri,
Dist. Hingoli.
12. Smt. Shivnanda Pandurang Kotkar,
Age: 33 yrs., Occ: Service,
R/o At Suldali (Bk), Post. Jawala (Bk),
Tq. Sengaon, Dist. Hingoli.
13. Smt. Chhaya Uttamrao Vaidya,
Age: 40 yrs., Occ: Service,
R/o At Rupur, Post. Nandapur,
Tq. Kalamnuri, Dist. Hingoli.

... PETITIONERS

...VERSUS...

1. The State of Maharashtra
Through The Secretary,
Rural Development & Water Conservation Dept.,
Mantralaya, Mumbai - 400 032.
2. The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Hingoli.
4. Vidyatai W/o Taterao Magar
Age 46 years, Occu. Service,
R/o Sindgi, Tq. Kallamnuri ,
Dist. Hingoli.
5. Sow. Kantabai Ramdas Haran
Age 33 years, Occu. Service
R/o Saverkheda Tq. and Dist.
Hingoli.

... RESPONDENTS

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- Mr. Ajay Deshpande, Advocate for the Petitioners
 - Mr. G. A. Kulkarni, AGP for State
 - Mr. S. B. Ghute, Advocate for Respondent No. 3
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**WITH
WRIT PETITION NO. 4502 OF 2006**

Kanta w/o Ramdas Haran
Age : 41 years, Occ: Service,
R/o. Sawarkheda, Tq. Hingoli,
District : Hingoli.

... PETITIONER

...VERSUS...

1. The State of Maharashtra
Through Chief Secretary, Mantralaya,
Mumbai.
2. The Collector, Hingoli,
Dist. Hingoli.
3. Chief Executive Officer
Zilla Parishad, Hingoli.
4. The Special District Social Welfare
Officer Hingoli, Dist. Hingoli.
5. Prakalp Adhikari
Ekatmik Adivasi Vikas Prakalp,
Hingoli.
6. Dy. Chief Officer Child Welfare
Hingoli, Dist. Hingoli.
7. Nirmala w/o. Kashinath Chavan
Age : 38 years, Occ. : Service,
R/o. Kanergoan, Tq. & Dist. Hingoli.
8. Ekadashi Nagorao Dhokane
Age : 31 years, Occ. : Service,
R/o. Sengaon, Tq. Sengaon,
Dist. Hingoli.
9. Devta W/o. Shaligram Hiwrale
Age : 34 years, Occ. : Service,
R/o. Durghasawangi, Tq. & Dist. Hingoli.

10. Shivnanda W/o. Pandurang Kotkar
Age : 32 years, Occ. : Service,
R/o. Suldali, Tq. Sengaon, Dist. Hingoli.

11. Pramila Vasantrya Ankuskar
Age : 36 years, Occ. : Service,
R/o. Goregaon, Tq. Sengaon,
Dist. Hingoli.

... RESPONDENTS

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- Mr. U. R. Chavan, Advocate for the Petitioners – Absent
 - Mr. G. A. Kulkarni, AGP for State
 - Mr. S. B. Ghute, Advocate for Respondent No. 3
 - Mr. U. R. Awate, Advocate for Respondent Nos. 7 to 11
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**CORAM : NITIN B. SURYAWANSHI &
VAISHALI PATIL – JADHAV, JJ.**

DATE : 13th NOVEMBER, 2025

ORAL JUDGMENT: [Per Nitin B. Suryawanshi, J.]

. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners have challenged their termination orders (Exhibit J) dated 05.06.2007.

Brief facts leading to the petition are as follows :

3. Petitioners were working as *Anganwadi Sevika* under Integrated Child Development Scheme (ICDS) implemented through the

Zilla Parishads. The Zilla Parishads initiated in-house selection process for selection of Anganwadi Supervisor (*Anganwadi Paryavekshika*) by way of nomination. Since the petitioners were eligible, they applied for the said post. They passed written examination and were successful in the interview. The petitioners were therefore, selected by the selection committee and were appointed as Anganwadi Supervisors (*Anganwadi Paryavekshika*) by respondent No. 3 – Zilla Parishad by appointment orders dated 15.04.2006. They accordingly joined their respective posts and started discharging their duties as Anganwadi Supervisors.

4. By the impugned termination orders dated 05.06.2007 the petitioners services were terminated on the ground that the selection process was faulty and therefore, the entire selection process is cancelled. Hence, this petition.

5. It is evident from the record that at the instance of the then Hon'ble State Minister for co-operation an enquiry was initiated into the selection process of the petitioners. The said enquiry was conducted by the Upper Divisional Commissioner, Aurangabad, who has submitted a report that the selection process was faulty for following reasons : **(a)** Though time of examination was at 10 a.m. actually the examination was conducted at 12 p.m. **(b)** Though the papers were required to be set by Chief Executive Officer, Hingoli, the Collector changed 32 questions in

the question papers. (c) Photocopies of the question papers were obtained from Xerox Centre and were brought to the Examination Centre. While doing so, no secrecy was maintained. (d) 75 questions from the question paper should have been on the topic of ICDS, however only 20 questions were relating to that topic. (e) After analyzing the marks obtained by the candidates, it is seen that there is a vast difference between the marks obtained by the candidates to the Chief Executive Officer's questions and Collector's questions. Some candidates' answer papers were not properly assessed.

6. At the time of admission hearing of this petition, while granting interim stay, this Court made following observation :

“3. Prima facie, even as per the enquiry report, on the basis whereof the impugned action was adopted, there is nothing to suggest that the petitioners were personally guilty of any action. Further, there appears to be some difference of opinion between the Chief Executive Officer, Zilla Parishad and the Collector. The petitioners were not involved with the same.

4. The petitioners have, pursuant to the orders of appointment dt.15.4.2006, being discharging their duties as Anganwadi Supervisors. They came to know about purported termination of their services only from the news item published on 6.6.2007. Moreover, according to the petitioners, they were not even permitted to report to their original post of Anganwadi Sevika. As informed by the respondents, the same had also been filled up by other candidates.

5. In the circumstances, ad interim order in terms of prayer clause C till further orders.

. *It is clarified that, this order shall not affect any other contentions which have been raised in Writ Petition no.4502/2006 or any other proceedings challenging the appointment of the petitioners, on any other grounds.*

. *All parties are directed to act upon the copy of this order, duly authenticated by the Court Sheristedar/Personal Secretary.”*

7. On going through the record, we find that there is no material to show that any fault is attributable to the petitioners and/or they were party to the alleged faults in the selection process.

8. Admittedly, the impugned termination orders were issued without giving any opportunity of hearing to the petitioners. In ***Basudeo Tiwary Vs. Sido Kanhu University***,¹ it is held as under:

“9. The law is settled that non-arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. It has come to be established, as a further corollary, that the audi alteram partem facet of natural justice is also the requirement of Article 14, for, natural justice the antithesis of arbitrariness. In the sphere of public employment, it is well settled that any action taken by the employer against an employee must be fair, just and reasonable which are components of fair treatment. The conferment of absolute power to terminate the services of an employee is antithesis to fair, just and reasonable treatment. This aspect was exhaustively considered by a Constitution Bench of this Court in Delhi Transport Corporation v. D.T.C. Mazdoor Congress, reported in AIR 1991 SC 101.

10. In order to impose procedural safeguards, this Court has read the requirement of natural justice in many situations when the statute is silent on this point. The

¹ 1998 AIR SCW 3186

approach of this Court in this regard is that omission to impose the hearing requirement in the statute under which the impugned action is being taken does not exclude hearing - it may be implied from the nature of the power - particularly when the right of a party is affected adversely. The justification for reading such a requirement is that the Court merely supplies omission of the legislature, (vide Mohinder Singh Gill and v. The Chief Election Commissioner, AIR 1978 SC 851) and except in case of direct legislative negation or implied exclusion, (vide S.L. Kapoor v. Jagmohan, AIR 1981 SC 136).

13. *Admittedly in this case notice has not been given to the appellant before holding that his appointment is irregular or unauthorised and ordering termination of his service. Hence the impugned order terminating the services of the appellant cannot be sustained."*

In view of the above ratio the impugned orders terminating services of the petitioners cannot be sustained.

9. In ***Inderpreet Singh Kahlon & Ors. Vs. State of Punjab & Ors.***², the Supreme Court has laid down principles that must imperatively be followed by the State in *en masse* cancellation of appointments of selection, namely:

(1) Satisfaction in regard to the sufficiency of the materials collected so as to enable the State to arrive at its satisfaction that the selection process was tainted;

(2) Determine the question that the illegalities committed go to the root of the matter which vitiate the entire selection process.

² 2006 AIR SCW 3346

Such satisfaction as also the sufficiency of materials were required to be gathered by reason of a thorough investigation in a fair and transparent manner;

(3) Whether the sufficient material present enable the State to arrive at satisfaction that the officers in majority have been found to be part of the fraudulent purpose or the system itself was corrupt. In this judgment, it is observed that an endeavor had to be made to segregate the tented from non-tented candidates.

10. Applying the aforesaid ratio to the facts of the present case, we find that the Divisional Commissioner has recorded perverse finding and the reasons mentioned by him in the report are not weighty to invite en masse cancellation of the selection process.

It appears that the examination time was 10 a.m. and the examination was held at 12 noon. It seems that the Collector replaced 32 questions in the question paper. Since this was done at the eleventh hour, the question papers were required to be sent for xeroxing and therefore, there was delay, but merely because the examination was held after two hours than the scheduled time and the delay was not at the behest of the petitioners, and it cannot be said to be a serious legality to set aside the entire selection process.

As the Collector has changed 32 questions in the question paper at eleventh hour the new question paper was required to be

xeroxed and it was brought to the examination centre. The Commissioner has therefore presumed that no secrecy was maintained. In this view of the matter it is assumed for the sake of argument that secrecy was not maintained, the same cannot be attributed to the petitioners and the said ground is not sufficient to set aside the entire selection process.

11. Since the Chief Executive Officer has asked questions on the topic of ICDS and as the petitioners were working on the posts of *Anganwadi Sevika / Balak Tai* they have rightly answered those questions and secured more marks. Since the Collector asked questions outside the ICDS topic, the petitioners have received less marks to the questions framed by the Collector. The Commissioner has presumed that since the petitioners have received more marks in the questions asked by the Chief Executive Officer the process is faulty. Reasons assigned by the Commissioner while declaring the selection process faulty are erroneous and they are perverse. Even if those reasons are accepted for the sake of argument to be correct, those are not weighty to en masse cancel the entire selection process. Therefore, the said findings recorded by the Commissioner are erroneous.

12. Though this is a case of no evidence the Commissioner has recorded perverse findings. While passing the impugned order,

respondents have failed to appreciate that the selection process was conducted by respondents themselves and the petitioners cannot be blamed for the alleged faults, which according to us are non-existent and are not weighty to en masse to cancel the entire selection process that too without giving an opportunity of hearing to the petitioners.

13. By now, petitioner Nos. 1, 7, 11 and 13 have already retired on superannuation and rest of the petitioners are working on their respective posts till date.

14. Learned advocate for the Zilla Parishad in respect of his argument has relied on : *(I) Bansilal Narayandas Kankaria & Ors. Vs. Special Land Acquisition Officer, Pune & Ors.*³ *(II) Union of India and Others Vs. O. Chakradhar,*⁴ *(III) State of U.P Vs. Neeraj Awasthi And Ors.,*⁵

15. In *Bansilal Narayandas Kankaria & Ors. (Supra)* it is held that, if on the admitted or indisputable factual position, only one conclusion is possible and permissible, the Court need not issue a writ merely because there is violation of the principles of natural justice. As mentioned supra, the findings recorded by the Commissioner are found

3 2001(1) MhLJ 638

4 2002 AIR SCW 872

5 2006 AIR SCW 123

to be faulty and are unsustainable in the facts of the present case and, therefore, this ruling is of no help to respondent – Zilla Parishad.

16. In *Union of India and Others (Supra)*, it is held that if termination of service is on account of cancellation of entire selection, issuance of individual show-cause notice to each selectee is not necessary.

It is further observed in this judgment that when there are widespread and all pervasive irregularities affecting the result of selection, notice to each selectee is not necessary. In the case in hand, we do not find any fault in the selection process. Therefore, this judgment is also of no assistance to the Zilla Parishad.

17. In *State of UP (Supra)* it is held that, if the appointments are irregular and those were cancelled on the direction of the State Government, the question of complying with the principles of natural justice would not arise. Principles of natural justice are attracted only when the services are terminated by way of a punitive nature or thereby a stigma is attached. This decision is rendered in the different facts and, therefore, the same is not of any help to the respondent – Zilla Parishad.

18. In the backdrop of the above, the writ petition is allowed in terms of prayer clause 'B', which is as follows :

“The impugned order determining the services of the petitioners at Exh. J’ dated 5.6.2007, issued in total distortion of the principles of natural justice, may kindly be quashed and set aside, upon calling for the relevant record pertaining to the so-called enquiry conducted, by directing the respondents to continue the petitioners in service as Anganwadi Supervisors, as before.”

Respondents are directed to give consequential pensionary benefits to petitioner Nos. 1, 7, 11 and 13. Their pension proposal be forwarded within eight weeks from the date of uploading of this order.

19. Rule is made absolute in above terms with no order as to costs.

WRIT PETITION NO. 4502 OF 2006 :

20. For the reasons stated in the accompanying judgment, and as we have held that the selection process of Anganwadi Supervisors by way of examination held on 15.04.2006 in Hingoli was properly conducted, Writ Petition No. 4502 of 2006 is **dismissed**. Rule discharged.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]