

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

WRIT PETITION NO. 1187 OF 2015

SWATI SADASHIV ZANKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Devakate Anant R
AGP for Respondent/State : Mr. M.M. Nerlikar
Advocate for Respondent no.2 : Mr. A.R. Nikam
Advocate for respondent Nos. 4 and 5 : Mr. Shelke Shivaji T.
Advocate for Intervenors : Mr. S.S. Thombre

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**CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: April 09, 2015**

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PER COURT :-

Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respective respondents.

2. This Petition is filed with the following prayers :-

“B) To call for Record of General Merit List published by respondent No.2 for Prathmik Shikshan Sevak CET- 2010 dated 20.01.2015.

C) To declare that the establishment of Ahmednagar Zilla Parishad allotted by respondent

No.2 for 317 candidates for appointment on post of Shikshan Sevak as per General Merit List dated 20.01.2015 is arbitrary, irrational and unconstitutional, by issuing writ of certiorari or any other writ or any other order;

D) To cancel and set aside the General Merit List published by respondent No.2 for Prathmik Shikshan Sevak CET-2010 dated 20.01.2015 to the extent of recommendation of Ahmedangar Zilla Parishad for 317 candidates for appointment on post of Shikshan Sevak, by issuing writ of certiorari or any other writ or order;

E) To direct the respondent Nos. 4 and 5 to fill up the vacancies available in Zilla Parishad Ahmedangar from the list of candidates seeking inter-district transfer and that too from the category of handicapped, serious illness, widow, deserted, maiden, wife of Soldier, husband-wife unification and Ex-military man candidates, by issuing writ of mandamus or any other writ or order;

3. The learned counsel appearing for the petitioners invited our attention to the Government Resolution dated 16th December, 2009 issued by the School Education and Sports Department, Government of Maharashtra, Mantralaya, Mumbai and in particular, clause

9(E) of the said Resolution and submits that, keeping in view the various factors stated in the said clause, the selected candidates are required to be given appointment depending upon the vacancies in district. The candidates have to fill in the preference form. The learned counsel appearing for the petitioners submits that, the interest of the petitioners i.e. Inter-District Transferee, is substantially affected in view of the fact that, Respondent No.2 has indicated in the selection list that, 316 candidates shall be appointed in Ahmednagar district by Zilla Parishad. List of candidates of 316 is sent by the Council to the Zilla Parishads, Municipal Corporations and Municipal Councils. According to the learned counsel appearing for the petitioners, if 316 appointments are given by the Zilla Parishad in Ahmednagar to the candidates, whose list is sent by Respondent No.2, in that case, Inter-district Transfer policy gets totally affected and the petitioners, who are serving from years together, will never get their turn for Inter-district transfer in Ahmednagar district. Therefore, the learned counsel appearing for the petitioners submits that, the Petition may be allowed.

4. On the other hand, the learned counsel appearing for Respondent No.2 invited our attention to the selection list which is placed on record from page 87 to 166 to the compilation of the Writ Petition and submits that, when the selection list was prepared, in the said list itself the code number of district is mentioned as per availability of vacancies. No malafide can be attributed to Respondent

No.2. The said mentioning of the code numbers of district is objective assessment, and therefore, this Court may not consider the prayers of the petitioners.

5. The learned counsel appearing for the intervenors invited our attention to the earlier orders passed by this Court in Writ Petition No. 11020 of 2010 and submits that, the action taken by the respondents therein are on the basis of the reply filed in the said Writ Petition, In the present case, 1282 candidates have been selected and the various Zilla Parishads and Local bodies have sent selection list all over Maharashtra for appointment. It is submitted that, the intervenors and other similarly situated candidates have been selected in the year 2010.

6. The learned counsel appearing for the Zilla Parishad submits that, the Zilla Parishad has verified the documents of CET candidates sent by Respondent No.2 and guidance is sought from the State Government in respect of Inter-district Transfer policy. He further submits that, as per the availability of criteria-wise vacancies, the selected candidates will be appointed.

7. We have heard the learned counsel appearing for the petitioners and the learned respective counsel appearing for the respondents. We have perused the entire material placed on record and in particular, the select list prepared by Respondent No.2 – Zilla Parishad. Upon perusal of the said select list, it appears that, the Establishment

Code number of the district is mentioned in respect of every candidates. We find that, various code numbers are mentioned. In all there are total 1282 candidates have been selected. There are various code numbers mentioned. We do not see any malafide on the part of the Respondent No.2 in preparing and in mentioning the establishment code numbers. We do not see any reason to accept the contention of the petitioners that, Respondent No.2 has arbitrarily or unreasonably selected Ahmednagar district and sent list of 316 candidates to Zilla Parishad, Ahmednagar. In our opinion, the policy of inter-district transfer is a matter to be resolved by the State and various Zilla Parishads and for that reason, we should not exercise writ jurisdiction and create hurdle for appointment of selected candidates by the Respondent No.2, way back in the year 2010.

8. In that view of the matter, we do not see any reason to entertain this Petition. Hence the Petition sans merits and same stands rejected.

(**P.R. BORA, J.**)

(**S.S. SHINDE, J.**)