

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4728 OF 2015

Suryakanta d/o Murlidhar Dongare
alias Sau.Suryakanta w/o Balaji Kasarkhedkar,
Age-32 years,
Occu-Service as Anganwadi Madatnis,
(Presently nil), R/o Bajajnagar,
Wadgaon Kolhati,
Tq. and Dist. Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Women and Child Development Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Aurangabad.
4. The Child Development Project Officer,
Integrated Child Development Service
Scheme Project-2, Aurangabad,
Delhi Gate, Aurangabad,
Tq. and Dist.Aurangabad
5. Meera Manikrao Kadam alias
Sau.Meera Babasaheb Shinde,
Age-Major, Occu-Now working as
"Anganwadi Madatnis",
R/o House No.RX-5/12,
Pandurang Housing Society,
MIDC, Bajaj Nagar,
Tq. and Dist. Aurangabad

RESPONDENTS

Mr.P.G.Gunale, Advocate for the petitioner.
Mr.A.B.Gaikwad, Advocate for respondent No.4.

Mr.M.K.Bhosle, Advocate for respondent No.5.
Mr.K.N.Lokhande, AGP for respondent Nos. 1 and 2.
Respondent No.3 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/10/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the order dated 28/02/2014 passed by respondent No.3 C.E.O. Zilla Parishad, by which her appointment as “Anganwadi Madatnis” has been cancelled. She is also aggrieved by the judgment of respondent No.2 Divisional Commissioner dated 07/01/2015, by which her Appeal No.19/2014 has been dismissed.
3. The petitioner submits that she had applied for appointment to the post of “Anganwadi Madatnis” pursuant to an advertisement published by the respondents/authorities. The minimum educational qualification for the post is 7th standard. The petitioner has passed her 10th standard. She was selected and appointed on 16/12/2013.

4. The petitioner further submits that some of the candidates objected to her appointment on the ground that she had not annexed the copy of the marks memo indicating the marks scored in the 7th standard and she had not scored 58% marks as was indicated in the application. Respondent No.3, therefore, set aside her appointment by the impugned order dated 28/02/2014. Grievance of the petitioner is that she was not heard.

5. Mr.Gunale, learned Advocate further submits that the petitioner moved an Appeal No.19/2014 before the Divisional Commissioner, Aurangabad/respondent No.2. Said appeal has been dismissed by the impugned order dated 07/01/2015.

6. Mr.Gunale has strenuously criticized the impugned orders. He submits that when the petitioner had annexed the 10th standard marks memo alongwith her application, there remains no debate that she has passed her 7th standard. As such, by not annexing the copy of the 7th standard marks memo would not and should not impact her appointment. He further submits that other candidates are less meritorious and hence the impugned orders are unsustainable.

7. Learned Advocates for the respondents have supported the

impugned orders.

8. This matter was heard on 28/10/2015. Considering the submission of Mr.Gunale that the petitioner had annexed the 10th standard marks memo to her application, I had passed the following order :-

- “1. Heard the learned Advocates for the parties.*
- 2. Considering the peculiar situation that the petitioner specifically contends of having annexed her 10th standard marks memo with her application, I request the learned AGP and the learned Advocate fr Respondent No.4 to ensure that the record and proceedings from the office of the Divisional Commissioner, Aurangabad (Respondent No.2) or the Child Development Project Officer at Aurangabad (Respondent No.4) is placed before this Court at 02.30 p.m. on 29th October, 2015 (tomorrow).*
- 3. In the event the record and proceedings are not produced, the contention of the petitioner will be taken to be uncontroverted.*
- 4. Stand over to 29.10.2015 at 2.30 p.m.”*

9. The learned AGP has accordingly produced the record and proceedings and he indicates from the application dated 29/04/2013 (wrongly written as 29/14/2013) that the applicant had attempted to mislead the Authorities by mentioning that she had scored 58% in the 7th standard. He submits that she has actually scored 48%.

10. He then points out the Government Resolution dated 15/09/2011 which prescribes the manner of allotment of marks. He submits that if a candidate has scored 65% marks, she is allotted 65 marks. In short, commensurate to the percentage of marks scored, the marks are allotted. As such, if the petitioner contends that she has scored 58% marks, she would be allotted 58 marks.

11. He further submits that annexing the marks memo of 10th standard with the application is insignificant and inconsequential since the marks to be allotted to an Anganwadi Madatnis in relation to her educational qualification, is only on the basis of the percentage of marks scored in the 7th standard.

12. The petitioner concedes that she has wrongly stated in her application that she had scored 58% marks. It is also conceded that the marks memo of the 7th standard was not annexed to the application.

13. This Court has taken a view in its judgment and order dated 28/10/2015, WP No.4728/2015 in the matter of Lalita d/o Bhanudas Kirtishahi Vs. The State of Maharashtra and others that the marks memo mandatorily has to be annexed to the application. This court

has also taken a view that all the documents mentioned in the advertisement, which are required for allotment of marks in the preliminary rounds, based on such documents, are mandatorily required to be annexed to the application.

14. In the light of the above and considering the fact that a dishonest statement has been made by the petitioner in her application, I am not inclined to entertain this petition. Even otherwise, both the authorities below have rightly concluded that the documents / marks memo as required to be annexed to the application are necessary and the petitioner had not annexed the marks memo of the 7th standard. I do not find any perversity in the impugned orders.

15. This petition is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)