

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.7176 OF 2013

SUNITI D/O GAJANAN SURYAWANSHI

PETITIONER

VERSUS

THE STATE OF MAHARASHTRA  
AND OTHERS

RESPONDENTS

Mr.I.D.Maniyar, Advocate for the petitioner.

Mrs.Y.M.Kshirsagar, AGP for respondent Nos.1 and 2.

Mr.S.R.Yadav, Advocate for respondent Nos. 3 and 4.

Mr.R.R.Karpe, Advocate for respondent No.5.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/07/2015

PER COURT :

1. After a preliminary hearing on 12/06/2015, I had passed the following order :-

*“1 The Petitioner is aggrieved by the selection and appointment of the Respondent No.5 as “Anganwadi Sevika”. She is also aggrieved by the order dated 10.12.2012 passed by the Respondent No.2 thereby, rejecting Appeal No.116/2011 preferred by the Petitioner for questioning the selection of the Respondent No.5.*

*2 I have heard the learned Advocates appearing for the respective sides for sometime. It appears that the dispute revolves around the sheet of marks which is at page 25 of the*

*petition paper book. The dispute is as regards the marks allotted in column No.10 in relation to the Petitioner and Respondent No.5. The Petitioner alleges overwriting and misrepresentation.*

3                    *In the light of the above, the Respondent Nos.3 and 4 are directed to produce the original documents pertaining to the allotment of marks at issue. The originals be kept available for perusal of the Court and the same shall be preserved in the custody of the learned Advocate for the Respondent Nos.3 and 4.*

4                    *Stand over to 03.07.2015 for further consideration.”*

2. Mr.Yadav, learned Advocate for respondent Nos. 3 and 4 has placed before me the original register containing the allocation of marks by the concerned experts. The marks at page No.25 of the petition paper book are at issue.

3. For the sake of clarity, Mr.Yadav indicates the existing tally of the petitioner and respondent No.5, which is as follows :-

- (a) With regard to the educational qualifications and additional 3 marks that the petitioner received on account of caste reservation, the petitioner stood at 49 and respondent No.5 stood at 45.
- (b) Member No.1 allotted 3 and 10 marks to the petitioner and

respondent No.5.

- (c) Member No.2 allotted 4 and 10 marks to the petitioner and respondent No.5.
- (d) Member No.3 allotted 5 and 9 marks to the petitioner and respondent No.5.
- (e) Member No.4 allotted 5 and 9 marks to the petitioner and respondent No.5.
- (f) The final tally of marks is shown at page No.28 of the petition paper book.

4. The dispute is as regards the marks allotted by Member No.2. On page No.28, coloumn No.10 is the average of the marks allotted by the 4 members. Mr.Yadav, therefore, submits from the record that the total marks allotted by 4 members to the petitioner and respondent No.5 are 17 and 38 respectively. An average has to be drawn since 4 members have assessed the candidates. The petitioner draws an average of 4.25 and respondent No.5 draws an average of 9.5.

5. In the above backdrop, Mr.Yadav submits that if the grievance of the petitioner with regard to the marks allotted by Member No.2 is accepted and 4 marks in Marathi are to be read as 8 marks in English, her tally will grow to 21 instead of 17 and her average would increase from 4.25 to 5.25. The average of respondent No.5 is 9.50.

This average will have to be added in column No.10 on page No.28 which includes the marks allotted on page No.23. Therefore, the score of 4.25 as against the petitioner shown in column No.10 on page No.28 may grow to 5.25 and the total will become 54.25. Respondent No.5, who has scored 9.5 will then stand at 54.50 and therefore would score over the petitioner.

6. Mr.Karpe, learned Advocate for the contesting respondent No.5 submits that she has been working as an “*Anganwadi Sevika*” w.e.f.13/07/2011. Even if the final tally is accepted considering the grievance of the petitioner, respondent No.5 scores over the petitioner.

7. In relation to the disputed marks allotted by Member No.2, he indicates that the entire sheet is in Marathi and all the numerical figures are in Marathi, whether typed or handwritten. Therefore, the score of the petitioner, which is a Marathi numerical 4 in column No.10 on page No.25, cannot alone be read in English to presume that it appears as an English numerical 8. If that be so, the marks allotted to respondent No.5 in Marathi numerical 10 will have to be read as English numerical 90. He, therefore, submits that the contention of the petitioner is an aberration.

8. The petitioner submits that a Government Resolution dated 05/08/2010 placed on record indicates the norms that have to be followed while awarding marks. He submits that the minimum marks that a Member must allot to a candidate is 5 and no candidate can be awarded more than 9 marks.

9. I have considered the impugned judgment in the light of the submissions of the petitioner. The issue as regards the Government Resolution was never raised before the Authority below. Similarly, even if the petitioner's score is added with 4 marks presuming that Member No.2 had allotted 8 marks in English numerical, respondent No.5 still scores over the petitioner.

10. In the light of the above and considering the fact that the competent authority had considered the contentions of the petitioner even from this angle, I do not find that the impugned judgment deserves to be termed as perverse or erroneous.

11. The petition is, therefore, dismissed.

( RAVINDRA V. GHUGE, J.)