

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7032 OF 2013

Meenabai Uttamrao Hugge,
Age-36 years, Occu-Nil,
R/o Borsuri, Tq.Nilanga,
Dist.Latur

PETITIONER

VERSUS

1. The Chief Executive Officer,
Zilla Parishad, Latur,
Dist.Latur.

2. The Child Development Project Officer,
Integrated Child Development Scheme,
Latur, Dist.Latur,

3. Narayan Kondiba Suryawanshi,
Age-41 years, Occu-Agriculturist,
R/o Borsuri, Tq.Nilanga,
Dist.Latur

RESPONDENTS

Mr.A.V.Patil-Indrale, Advocate for the petitioner.
Mr.P.R.Tandale, Advocate for respondent Nos.1 and 2.
Respondent No.3 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/09/2015

ORAL JUDGMENT :

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

2. The petitioner is aggrieved by the concurrent findings of

respondent No.1 / Chief Executive Officer and the Divisional Commissioner, Aurangabad dated 28/12/2011 and 22/07/2013 respectively.

3. The petitioner submits that pursuant to the advertisement for appointments of “Anganwadi Helpers”, the petitioner had applied and was subsequently selected. She was appointed as “Anganwadi Helper” by order dated 25/03/2011.

4. It is further submitted that one Mr.Narayan Kondiba Suryawanshi, who was not an applicant or aspiring candidate for the post of “Anganwadi Helper” preferred a proceeding before respondent no.1 Chief Executive Officer. He raised a grievance that the petitioner has 3 biological children prior to her date of appointment and hence her appointment deserves to be set aside. By the impugned order dated 28/12/2011, respondent No.1 concluded that the petitioner has 3 children and hence her appointment was set aside.

5. The petitioner preferred an Appeal No.11/2012 before the Divisional Commissioner, Aurangabad. Same was dismissed by order dated 22/07/2013.

6. Mr.Patil, learned Advocate for the petitioner specifically contends that the GR dated 05/08/2010 provides in clause 5 that an aggrieved person, who is one of the applicants / aspiring candidate can alone lodge a complaint and within 30 days from the date of appointment of a person as “Anganwadi Sevika / Madatnis”. He, therefore, submits that respondent No.3 herein Narayan Kondiba was neither an applicant nor an aggrieved party and hence could not have challenged the appointment of the petitioner.

7. Mr.Patil further submits that the complaint was lodged beyond 30 days from the date of appointment and hence the competent authorities should have rejected the complaint for the above reasons. He, therefore, submits that the impugned orders are unsustainable in Law and deserve to be quashed and set aside. He further prays for reinstatement as an “Anganwadi Helper”.

8. Mr.Tandale, learned Advocate appearing for respondent Nos. 1 and 2 opposes this petition. Contention is that technicalities need not be looked into as to whether respondent No.3 could have complained against the petitioner or not. He submits that respondent No.3 was instrumental in exposing the fraud played by the petitioner upon the Appointing Authorities and had obtained an appointment order based

on false information. Since this fraud was exposed, the locus of respondent No.3 need not be questioned as in fact he has done service to the Society by exposing the petitioner.

9. He further submits that the GR dated 05/08/2010 prohibits the appointment of any person as “Anganwadi Helper” or “Anganwadi Karyakarti” if the said candidate has more than 2 children. He, therefore, submits that respondent No.3 was merely a medium through which the fraud played by the petitioner was exposed and hence the appointment of the petitioner has been rightly cancelled.

10. I have considered the submissions of the learned Advocates as recorded hereinabove.

11. It is not in dispute that the candidate, who has two or less than 2 children, is entitled for an appointment. By the call letter dated 07/03/2011, respondent No.2 had invited the petitioner for the interviews. Clause 6 of the said letter indicates that a candidate would be held disqualified in the event it is found that an appointment has been sought on the basis of forged documents.

12. I find from the appointment order dated 25/03/2011 that the

Appointing Authority has indicated to the petitioner under clause 10 that she would be held disqualified and would be removed from employment in the event it is found that she has more than 2 children.

13. Considering the condition set out in the appointment order, I am of the view that if the petitioner was honest, she would have informed the Appointing Authority that she has 3 children. It has been conclusively proved that the petitioner has 3 children, who have been born prior to her appointment. It cannot be disputed that the petitioner while acquiring appointment, has indicated/stated that she has two children and not more. The intention of the petitioner in suppressing this fact and acquiring appointment on the basis of misrepresentation is quite evident.

14. In the light of the above, I am not inclined to consider the objections of the petitioner for the reason that respondent No.3 has been instrumental in exposing the petitioner. I, therefore, do not find any reason to interfere with the impugned orders.

15. This petition is, therefore, devoid of merit and is dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)