

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7699 OF 2009

Smt. Shobha Madhukar Baviskar (Dole)
Age : 41 Years, Occu. : Service,
R/o C/o M.B. Baviskar,
New Parvatibai Kale Nagar,
Plot No.17/18, Gat No.454,
Near Zakir Hussain Colony Mohadi Road,
Jalgaon.

... PETITIONER

VERSUS

- 1] The State of Maharashtra
through its Principal/Secretary,
Women & Child Development
Department, Mantralaya,
Mumbai-32.
- 2] The Additional Commissioner,
Women and Child Development,
Maharashtra State, Pune-1.
- 3] District Women and Child
Development Officer,
2nd Floor, Administrative Building,
Jalgaon, Dist. Jalgaon.
- 4] The Superintendent,
Childrens Care Home/Remand Home,
Collector to Office Road,
Zilla Peth, Jalgaon.
- 5] Maharashtra State Board of Vocational Exam.
Mumbai, through its Chairman.

... RESPONDENTS

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Mr. Ajay Deshpande, Advocate h/f Mr. V. P. Patil : Advocate for Petitioner
Mrs. M.S. Patni : AGP for the respondents/State

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CORAM : A.V. NIRGUDE & A.M. BADAR, JJ.
DATE : 8th JULY, 2015.

PER COURT:

1] Heard.

2] This petition challenges the order dated 9th October, 2009 passed by the Commissioner of Women and Child Development Department, holding that the petitioner was not entitled to pay scale prescribed for the post of “Teacher”. By this order, petitioner's pay scale was reduced to the pay scale prescribed for the post of “Instructor” and recovery was also ordered. Admittedly, the Department took this decision abruptly without giving an opportunity of hearing to the petitioner, who was adversely affected. A similarly placed “Craft Teacher” came before this Court by filing Writ Petition No. 8761 of 2010 and this Court remanded the case back to the Department for deciding the question, as to whether the petitioner therein was entitled to pay scale prescribed for the post of “teacher” or, for “instructor”. The case in hand appears similar to us.

3] FACTS : - The petitioner was appointed as “Craft Teacher” in 1996 in the Remand Home run by respondent No.4 at Jalgaon. Her appointment was approved by the Department in due course. The petitioner is educated up to SSC with Certificate Course in Card Board Work and Book Binding. She secured her employment as “Craft Teacher” on the strength of the said Certificate Course. Admittedly, she has not secured Diploma in Teaching (D.Ed.). The Department has prescribed different pay scales to “Teachers” with S.S.C. D.Ed. qualification and “Instructor” with S.S.C. Qualification.

For some time, the petitioner was given salary in the pay scale of Teacher though she did not possess Diploma in Education. In such situation, the impugned order dated 9th October, 2009 was passed.

4] We are inclined to hold that the impugned order suffered from violation of principles of natural justice. The affected party was not heard prior to taking this decision. So, we are convinced that we should remand this case back to the Department. They should decide as to whether the petitioner's qualification is equivalent to D.Ed. We are sure that such decision would be taken on the basis of the quality of education taken by the petitioner for obtaining the Certificate. We are told, in the earlier case i.e. in Writ Petition No. 8761 of 2010, the petitioner therein had undergone a Certificate Course in Weaving. We are also told that the Department considered the quality of the education and decided, as to whether the candidate holding Certificate of Weaving should be held to be holding qualification equivalent to Diploma in Education. We do not want to express our opinion, as to whether the Certificate Course done by the petitioner is equivalent to any other Diploma etc. This must be done by the Department after hearing the submissions of the petitioner.

5] Hence, the petition stands disposed of with following directions :-

[a] The impugned order dated 9th October, 2009 passed by the respondent No.2 is quashed and set aside.

[b] The Department of Women and Child Development is directed to decide the question, as to what pay scale the petitioner is entitled to. The Department is expected to take decision within six months from today.

[c] The interim relief granted in favour of the petitioner shall continue till the above issue is decided by the respondent No.2 and two weeks thereafter.

[A.M. BADAR]
JUDGE

[A.V. NIRGUDE]
JUDGE.

grt/-