

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 582 OF 2011

BHANUBAI AYUB TADVI

VERSUS

THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioner : Mr. Pawar Ajay D.
 AGP for Respondents-State: Mr. S. D. Shelke

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**CORAM : S. V. GANGAPURWALA &
 V. L. ACHLIYA , JJ.**

DATE : 23rd January, 2015

PER COURT :

1. Rule, returnable forthwith. By consent taken up for final hearing.

2. This Court, vide order dated 25th January, 2011, had protected the services of the petitioner as Anganwadi Sevika. The learned counsel for the petitioner states that pursuant to the said order, the petitioner is discharging her duties as Anganwadi Sevika. The leaned counsel submits that the petitioner had contested the election as member of Grampanchayat in the year 2007. Vide order dated 13.12.2010, the petitioner was directed to be removed from services as Anganwadi Sevika on the ground that the petitioner was elected as Member of Grampanchayat. According to the learned counsel, the same was pursuant to the Government Resolution dated 25th August, 2010. The learned counsel submits that the term of the petitioner is over and now the petitioner is no longer member of the Grampanchayat.

3. The learned counsel for the respondents submits that considering

the fact that petitioner could not have been member of the Grampanchayat while discharging her duties as Anganwadi Sevika, the order has been rightly passed by the authorities.

4. The Government Resolution dated 25th August, 2010 would apply prospectively and not retrospectively. The petitioner is already elected as Member of the Grampanchayat in the year 2007. The said Government Resolution will have to be applied prospectively based on the doctrine of reading down.

5. It would have been another fact, if the petitioner would have contested election after 25th August, 2010 and declared elected. In that case, the petitioner would not have been in position to continue as Anganwadi Sevika. However, in the present case, the facts are otherwise.

6. In the light of above, the impugned order is quashed and set aside. Rule is accordingly made absolute. No costs. Writ petition disposed of.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC