

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.807/2015

**(Ku. Shubhangi Tejrao Deshmukh .vs. The Zilla Parishad, Buldhana through
its Chief Executive Officer and others.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. P.R. Puri, Advocate for Petitioner.
Mr. G.G. Mishra, Advocate for Respondent Nos. 1 & 2.
Mr. Mehroz Pathan, AGP for Respondent No.3.
Mr. N.A. Jachak, Advocate for Respondent No.4.
Mr. R.S. Kurekar, Advocate for Respondent No.5.

CORAM : B.R. Gavai & Indira K. Jain, JJ.

DATED : August 6, 2015.

1. The petitioner being aggrieved by the selection of respondent Nos. 4 and 5 as Shikshan Sevak from the category of project affected person, has approached this Court.

2. It is the contention of the petitioner that though initially respondent nos.4 and 5 were appointed, subsequently their appointment was found to be not in accordance with the law and as such was cancelled. It is stated that the said decision was upheld by one man grievance committee, by this Court and so also the Apex Court. It is, therefore, submitted that selection of the respondent Nos. 4 and 5 is contrary to law.

3. Mr. Mishra, learned counsel appearing on behalf of respondent Nos. 1 and 2 submitted that the earlier decision cancelling the selection of respondent nos. 4 and 5 was on the basis of the judgment of the Division Bench of this Court in the case of **Sunil vs. State of Maharashtra** reported in **2008(5)**

Mh.L.J.436 which held that the appointments of the persons belonging to project affected persons have to be made on the basis of their waiting list. It is, therefore, submitted that since respondent Nos. 4 and 5 though were found more meritorious, were found at the lower place in the waiting list and as such their selection stood cancelled. It is further submitted that subsequently another Division Bench disagreed with the view taken by the earlier Division Bench and referred the matter to the Hon'ble the Chief Justice in order to constitute Larger Bench to decide the issue. It is submitted that the Larger Bench in the case of **Rajendra Pandurang Pagare .vs. State of Maharashtra** reported in **2009(4) Mh.L.J. 961** took a view that appointments only on the basis of the placement in the waiting list without considering the merit and eligibility of the candidates, was contrary to the mandate of Articles 14 and 16 of the Constitution of India. It was, therefore, held that only reservation for project affected person would be permissible and all the candidates from that category will have to compete *inter se* prior to being selected. It is submitted that in view of the law laid down by the Larger Bench in the case of **Rajendra Pagare** (supra), the Zilla Parishad took a stand before the one man grievance committee that the case of each of the claimants would be decided on the merit. It is submitted that respondent nos. 4 and 5 were found to be more meritorious and there were two posts reserved for project affected person and they came to be selected and also appointed.

4. We find that since the action taken by the

respondent-Zilla Parishad is in consonance with the law laid down by the Larger Bench of this Court in the case of **Rajendra Pagare** (supra), no interference is warranted. Admittedly respondent Nos. 4 and 5 are the most meritorious candidates in the selection process from the category of project affected person.

5. The petition is without merit and as such dismissed.

JUDGE

JUDGE

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