

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

WRIT PETITION NO.6051 OF 2014

(Sou. Maya Murlidhar Padghan & others Vs. The State of Maharashtra & others)

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

Court's or Judge's orders

Shri A. M. Ghare, Advocate for the petitioners.
 Shri A. D. Sonak, A.G.P. for respondent Nos. 1 and 2 and.
 Shri Amol Deshpande, Advocate for respondent Nos. 3 and 4.

CORAM : SMT. VASANTI A. NAIK AND
A. M. BADAR, JJ.

DATED : 27th JULY, 2015

By this petition the petitioners challenge the order of the respondent No.2-the Divisional Commissioner, Amravati dated 05/7/2014 as also the order of the Chief Executive Officer, Zilla Parishad Washim dated 08/01/2013 cancelling the appointment of the petitioners as Anganwadi Sewikas, mini Anganwadi Sewikas and helpers.

In pursuance of an advertisement issued by the Zilla Parishad, Washim dated 21/01/2011, the petitioners applied for appointment on the posts of Anganwadi Sewikas, Anganwadi Helpers and Anganwadi Mini Sewikas along with several other candidates. The examination and interview was held and a merit list was published. On the declaration of the merit list, six candidates lodged a complaint to the Chief Executive Officer of the Zilla Parishad. The complaint was looked into by the Chief Executive Officer and it was found that there was no apparent illegality. The State Government considered the matter and directed the Zilla Parishad to issue the appointment orders as there was no apparent illegality in the selection process. According to the petitioners, the appointment of the petitioners on the afore stated posts on 30/11/2012 was concealed by the six complainants as well as the respondent No.3 when Writ Petition

No. 4313 of 2012 was filed seeking the cancellation of the selection process. By an order dated 06/12/2012, this Court disposed of Writ Petition No. 4313 of 2012 and directed the Chief Executive Officer to look into the complaint. The appointment orders issued to the petitioners and some other candidates were cancelled on 08/01/2013. Being aggrieved by the cancellation of the appointment orders, the petitioners filed Writ Petition No. 519 of 2013. The said writ petition was disposed of by an order dated 26/3/2013 after directing the Chief Executive Officer to hear the petitioners as well as the complainants and take appropriate decision within a period of four weeks. The Chief Executive Officer heard the petitioners and the respondents and by the impugned order held that there was illegality in the selection process and the appointments were liable to be set aside. Being aggrieved by the order of the Chief Executive Officer, the petitioners filed an appeal before the Divisional Commissioner, Amravati but the appeal filed by the petitioners was dismissed. The orders of the Chief Executive Officer and the Divisional Commissioner are impugned in the instant petition.

On hearing the learned Counsel for the parties and on a perusal of the impugned orders, it appear that there is no scope for interference with the impugned orders in exercise of the writ jurisdiction. Admittedly, one of the members on the selection committee, namely Smt. Rathod was illiterate and, therefore, the Superintendent from the office of the Zilla Parishad, namely Smt. Mule, was present in the interview committee to allot marks to the candidates. Smt. Rathod, being an illiterate person, could not have been appointed on the selection committee. A member on the selection committee is at least expected to read and write and allot marks. Since Smt. Rathod was not able to read and write and even allot the marks, Smt. Mule participated in the selection process. The selection process was vitiated by the appointment of

an illiterate person on the selection committee. If a candidate applying for the post of Anganwadi Sevika is required to have passed the 9th standard examination, it is difficult to gauge how an illiterate person could have been appointed on the selection committee to consider the merit of a candidate who is educated up to the 10th standard. The appointment of Smt. Rathod on the selection committee vitiated the selection process. It is observed in both the enquiry reports that Smt. Rathod was illiterate and hence with a view to write the marks secured by the candidates, Superintendent Smt. Mule was present at the time of interview. In her written statement, Smt. Mule had clearly stated that Smt. Rathod had told Smt. Mule before the commencement of the interview, as to how many marks should be allotted to each of the candidates. Apart from the aforesaid position, we find that in respect of the appointments to the post of Anganwadi Sevika in several villages, more than 5 candidates were called for interview, though the Government resolution provides that at the most 5 meritorious candidates should be called for interview along with the widows and deserted women.

In the circumstances of the case, we do not find any illegality in the orders of the Chief Executive Officer and the Divisional Commissioner. There was no course open for the Authorities to cancel the selection process in view of the appointment of an illiterate woman on the selection committee for appointment of candidates on the posts of Anganwadi Sewikas, Anganwadi Helper and Anganwadi Mini Sewikas, who are required to be literate.

Since there is no merit in the writ petition, the same is dismissed with no order as to costs.

JUDGE

JUDGE