

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 858 OF 2016

Smt. Priyatama Sakharam Wakle,
Age 27 years, Occ. Nil,
r/o Kumbhephal, Tq. Jintur,
District Parbhani.

..Petitioner

Versus

1. The Divisional Commissioner,
Aurangabad Division, Aurangabad.

2. The Chief Executive officer,
Zilla Parishad, Parbhani.

3. The Child Development Officer,
Integrated Child Development
Project Officer at Jintur,
District Parbhani.

4. The Block Development Officer,
Panchayat Samiti, Jintur,
Tq. Jintur, Dist. Parbhani.

5. The Extension Officer,
Panchayat Samiti, Jintur,
District Parbhani.

6. Smt. Suvernamala Subhash
Waghmare, age 30 years,
Occ. Nil, r/o Kumbhephal,
Tq. Jintur, Dist. Parbhani.

..Respondents

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Advocate for Petitioner : Shri Amit A. Mukhedkar
AGP for Respondent 1 : Smt. Raut S.S.
Advocate for Respondent 2 : Shri Mundhe Sanjay V.
Advocate for Respondent 6 : Kale Ajeet B.
Respondents 3 to 5 : Served.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: April 04, 2016

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. The petitioner is aggrieved by the order dated 3.2.2015 delivered by respondent No.2 by which the Complaint filed by respondent No.6, challenging the appointment of the petitioner was allowed. The petitioner is also aggrieved by the order dated 10.12.2015 delivered by respondent No.1, by which, Appeal No.3 of of 2015 filed by the petitioner has been rejected.
5. The grievance of the petitioner is that despite having fulfilled all the requirements as described by the public proclamation dated 6.12.2013 and having been rightly appointed on the basis of merit as an Anganwadi Karyakarti, respondent No.2 and respondent No.1 have erroneously interfered with the appointment of the petitioner and have set aside her appointment.
6. The petitioner submits that if the merit list prepared by the competent authority after the interviews were conducted is seen, the

petitioner stood at Sr. No.1 in the merit list and was rightly appointed.

7. The petitioner submits that an application for seeking appointment as Anganwadi Karyakarti was filed by the petitioner. She claimed to be a resident of village Kumbhephal, Taluka Jintur, District Parbhani. She claimed to have produced the residence certificate along with her application. The interviews were conducted on 31.1.2014 and she was rightly appointed as Anganwadi Karyakarti by order dated 10.2.2014.

8. It is further stated that, Respondent No.6 has lodged a false complaint against the petitioner alleging that she does not reside in village Kumbhephal, but is a resident of village Savangi Mhalsa and therefore, could not have been eligible for appointment. Respondent No.2 has erroneously set aside her appointment by the impugned order dated 3.2.2015, after concluding that the petitioner is not a resident of village Kumbhephal and is a resident of village Savangi Mhalsa. This conclusion is perverse in the light of the fact that the proclamation requires that the Gram Sevak and the Sarpanch shall issue a certificate of residence and such a certificate is alone to be considered. The petitioner had produced such certificate and the impugned order is an outcome of the concerned authority having failed to take note of such a certificate.

9. He further submits that a false certificate was produced by respondent No.6 obtained from the Tahsildar of Taluka Jintur, purportedly

showing the place of residence of the petitioner at village Savangi Mhalsa. The said certificate does not find its origin in the records and there is no outward number issued for the same. For this reason, respondent No.1 under the impugned order dated 10.12.2015 has directed an enquiry into the matter. Shri Mukhedkar, therefore, strenuously submits that when respondent No.6 has attempted to pollute the selection process, her complaint deserve to be rejected only on this ground.

10. He further submits that the petitioner had produced the residence certificate of village Kumbhephal from the office of the Tahsildar, Jintur dated 4.12.2014, which is prior to her appointment on 10.12.2014. The said certificate clearly indicates that she was a resident of village Kumbhephal. It is, therefore, submitted that both the authorities have misdirected themselves and rather than considering the certificate produced as per the proclamation, they have unnecessarily considered the contentions of respondent No.6, who has approached the authorities with tainted hands. It is, therefore, prayed that this petition be allowed and the petitioner be reinstated in service.

11. Shri Mundhe, learned Advocate appearing on behalf of respondent No.2 and the learned AGP appearing on behalf of respondent No.1 have supported the impugned orders. It is primarily and seriously contended by them that the petitioner had made a false statement that she had produced the residence certificate along with the application pursuant to the

proclamation. On the date of interviews, no such residence certificate was on record and yet respondent No.3 - Child Development Officer considered the candidature of the petitioner and issued an appointment order. In fact, respondent No.3 should have disqualified the petitioner in the scrutiny of the applications. Having failed in performing its duties, action has been initiated against respondent No.3.

12. It is further submitted that the petitioner was the resident of village Kumbhephal prior to her marriage to Shri Balaji Khandare, who is a resident of Savangi Mhalsa. After her marriage in 2011, she started residing with her husband at his village. Pursuant to her marriage, she applied for entering her name in the voters' list showing her residence as village Savangi Mhalsa and accordingly her name was included in the said voters' list. Merely because after her name was included in the voters' list of village Savangi Mhalsa, that she did not get her name deleted from the voters' list of Kumbhephal, would not make her a resident of village Kumbhephal.

13. It is submitted that this Court had dealt with Writ Petition No.3960 of 2014 filed by the respondent No.6. By order dated 14.7.2014, the learned Division Bench directed respondent No.2 to consider the objections of the present respondent No.6 and decide the issue. It is further submitted that under orders of respondent No.2, an enquiry was conducted by considering the statements of certain villagers from village Kumbhephal. The five witnesses stated that the petitioner was residing at Kumbhephal prior to her

marriage and after her marriage she has been residing at Savangi Mhalsa and her name appears at Sr. No.974 in the voters' list for that village.

14. It is then submitted that considering the above facts, respondent No. 1 has directed an enquiry against the Tahsildar. It is, therefore, prayed that this petition be dismissed.

15. I have considered the submissions of the learned Advocates and have gone through the record and proceedings received from respondent Nos.2 and 1 authorities, with their assistance.

16. The sequence of events assumes importance. The petitioner was a resident of village Kumbhephal and her maiden name is Priyatama Wakale. Her joining report indicates her name as Priyatama d/o Sakharam Wakale. This would indicate that despite her marriage to Shri Balaji Khandare in 2011, she has not applied for the post of Anganwadi Karyakarti by her marital name. This apparently is with the intention of being supported by the certificate issued by the Gram Sevak and the Sarpanch in her maiden name so as to indicate that she is a resident of village Kumbhephal. It cannot be over looked that she got married to Shri Khandare in 2011 and thereafter, got her marital name entered in the voters' list of village Savangi Mhalsa.

17. It is also cannot be ignored that the petitioner did not attach her

residence certificate to her application for seeking appointment. Record reveals that no such residence certificate was produced on record along with her application. Though it may not assume importance, the fact remains that it is falsely stated by the petitioner that such residence certificate was annexed to the application.

18. The proclamation dated 6.12.2013 has informs every candidate that nine documents are to be annexed to the application. It had been clearly stated that the application with the documents has to be produced and filed before the last date by personally appearing in the office of the Child Development Officer while filing it. Applications sent through posts were not to be entertained.

19. In this backdrop, all the documents mentioned in the proclamation were necessarily to be produced along with the application. One of the nine documents is the residence certificate signed by the Sarpanch and the Gram Sevak. Record reveals that even on the date of the interviews 31.1.2014 after which the merit list was prepared, the petitioner had failed to produce a certificate showing her residence at village Kumbhephal. It also cannot be ignored that after her appointment on 10.12.2014, she moved the appropriate authorities on 12.2.2014 seeking deletion of her name from the voters' list of village Savangi Mhalsa.

20. In my view, if all the above noted factors are to be taken into

account, it appears that the petitioner has made a systematic attempt to falsely establish her residence at being from village Kumbhephal. Despite she being included in the voters' list of Savangi Mhalsa by her marital name, she has applied on her maiden name and has attempted to produce the residence certificate dated 15.12.2013, which is prepared on her maiden name after the proclamation was published on 6.12.2013. The entire effort of the petitioner to mis-represent that she was a resident of village Kumbhephal by getting a residence certificate prepared in her maiden name on 15.12.2013, pursuant to the proclamation dated 6.1.2013, despite she having been married in 2011, establishes that she has made every effort to mis-represent the authorities.

21. In the light of the above, this petition is devoid of merits and is, therefore, dismissed.

22. Considering the conduct of the petitioner and in the light of the judgment of the Apex Court in the matter of Kishore Samrite Vs. State of U.P., reported at [(2013) 2 SCC 398], I am imposing costs of Rs.25,000/- (Rs.Twenty Five Thousand only/-) on the petitioner to be deposited with respondent No.1 within four weeks from today. Needless to state, the directions issued by respondent No.1 for causing an enquiry against the errant officers is appreciated and it is expected that the enquiry is taken to its logical end.

23. Rule is discharged. R & P to be returned forthwith.

(RAVINDRA V. GHUGE, J.)

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