

UNREPORTED

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

BENCH AT AURANGABAD.

WRIT PETITION NO.2705 OF 2015

WITH

C.A.NO.1023 OF 2016

IN

W.P.NO.2705 OF 2015.

Manoranjan S/o Raosaheb Dhas,
Aged 36 years, Occ.Service,
R/o Jamgaon, Tq.Ashti,
Dist.Beed. ... Petitioner.

Versus

1.The State of Maharashtra,
through its Secretary,
General Administration
Department, Mantralaya,
Mumbai-32.

2. The Chief Executive Officer,
Zilla Parishad, Beed. ... Respondents.

...

Mr.V.J.Dixit, Senior advocate i/by
Mr.A.N.Nagargoje, advocate for the petitioner.
Mr.V.S.Badakh, A.G.P. for the State.
Mr.P.D.Suryawanshi, advocate for Respondent No.2.
Mr.B.T.Bodke, advocate holding for
Mr.S.N.Gaikwad, advocate for intervener.

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**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 27.09.2016.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.

3. Mr.Dixit, learned Senior advocate for the petitioner states that the petitioner was appointed as a Primary Teacher by following due procedure of law. Advertisement was issued. Pursuant to the advertisement, the petitioner applied and the petitioner was selected. As per the Rules, on completion of five (5) years, the Primary Teacher is entitled for promotion as Extension Officer (Education). The learned Senior advocate submits that petitioner had completed more than six (6) years, as such was promoted as Extension Officer (Education). The service book of the petitioner also shows continuation in service. The petitioner had not

used the certificate of the freedom fighter or he being nominee of the freedom fighter. According to the learned counsel even the order directing setting aside the freedom fighter's certificate of Kisan Sarjerao Sole, who had nominated the petitioner is set aside by the Apex Court in SLP filed by said Kisan Sarjerao Sole. As such the very basis upon which the impugned notice is issued does not survive.

4. Mr.Suryawanshi, learned counsel for Respondent No.2 submits that petitioner was appointed as a Primary teacher by following due procedure of law pursuant to an advertisement and not as a nominee of freedom fighter. However, while appointing the petitioner as an Education Extension Officer (Education), benefit of the nomination given to him by the freedom fighter Kisan Sole was given to him. It is because he was nominee of the freedom fighter, the petitioner was appointed as an Extension Officer (Education). The petitioner was not standing in seniority at the relevant time to be promoted as Extension Officer (Education). According to the

learned counsel, Respondent No.2 has rightly issued notice and the same is in compliance with the directives of the Government.

5. We have heard learned A.G.P. also and Mr.Bodke, learned counsel for the Intervener.

6. There is no dispute that the petitioner was appointed as a Primary teacher by following due process of law and that the petitioner had not taken any benefit of being a nominee of freedom fighter. The dispute is about the appointment of the petitioner as Extension Officer (Education) i.e. whether the same was by way of promotion or as a nominee of freedom fighter. Pursuant to the report of Justice Palkar Commission, it was found that there are about 298 bogus freedom fighter certificates issued, Kisan Sole, was one of them. As submitted by the petitioner, said Kisan Sole had filed Writ Petition before this Court, the same was dismissed. Against the said order Kisan Sole, had filed SLP before the Apex Court and the same is allowed. The freedom fighter's

certificate given to said Kisan Sole, is protected.

7. In view of the above, the very basis of issuing notice to the petitioner does not survive. In view of that, we are not required to consider as to whether the petitioner was promoted as an Extension Officer (Education) in due course or was appointed as Extension Officer (Education) as a nominee of freedom fighter.

8. In light of the above, the impugned notice dated 23.12.2014, is quashed and set aside. Rule accordingly is made absolute. No costs.

9. In view of disposal of Writ Petition, the Civil Application also stands disposed of.

Sd/-
(K. L. WADANE, J.)

Sd/-
(S. V. GANGAPURWALA, J.)

