

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5273 OF 2014

Nilawati d/o. Sangram Birge
@ Meena w/o. Sugriv Tambre,
Age: 34 Years, Occu. Nil,
R/o. Arasnal, Tq. Udgir,
Dist. Latur.

PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Child Development Department,
Mantralaya, Mumbai-32.

[Copy to be served on the
Govt. Pleader, High Court,
Bench at Aurangabad]

- 2] The Deputy Chief Executive Officer,
Child Welfare, Zilla Parishad,
Latur, Tq. Dist. Latur.
- 3] The Child Development Project Officer,
Integrated Child Development Service
Scheme, Udgir, Tq. Udgir,
Dist. Latur.

RESPONDENTS

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Mr. V.D.Gunale, Advocate for the Petitioner
Mr. B.V.Virdhe, AGP for the Respondent No.1.
Mr. S.S.Manale, Advocate for the respondent
Nos.2 and 3.

...

**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL, JJ.**

Reserved on : 07.04.2016
Pronounced on : 16.04.2016

ORDER: [Per S.S.Shinde, J.]:

This Petition takes exception to the order dated 29th April, 2014, passed by respondent no. 2 and the order of termination of the services of the petitioner issued on 2nd May, 2014, by respondent no. 3.

2] The learned counsel appearing for the petitioner submits that, the petitioner has completed her study from 1st to 7th standard from Maruti Primary and Secondary School at Kamalnagar. It was a recognized school. However, subsequently it was derecognized. It is submitted that, when respondent no. 2 appointed Extension Officer and Junior Assistant for enquiry about the said school, it was found that, the above-

mentioned school was not in existence. It is submitted that, the certificate possessed by the petitioner shows that, she studied 7th standard from the above mentioned school in the year 1992-1993 when the said school was in existence. It is submitted that, all the certificates which were produced by the petitioner with her application and at the time of scrutiny of application for appointment as Anganwadi Helper are genuine documents. It is submitted that, the documents, on which the respondents have placed reliance, are not genuine documents. The petitioner was not given opportunity to submit reply to the complaint. It is submitted that, only on the basis of the allegations made in the complaint and finding the petitioner's name in the school record at village Bembra, it has been held that the certificates produced by the petitioner, which are issued by the Maruti Primary and

Secondary School at Kamalnagar, are not genuine and the same are fabricated. The learned counsel appearing for the petitioner invited our attention to the copies of the original documents and submitted that, all the documents are genuine, and therefore, the impugned orders deserve to be quashed and set aside and further sought directions against the respondents to restore the services of the petitioner on the post of Anganwadi Helper.

3] On the other hand, the learned AGP appearing for the respondent – State submits that, the documents submitted by the petitioner and in particular the documents obtained by the petitioner from Maruti Primary School, Kamalnagar, appear to be fabricated, and therefore, the petition is devoid of any merit and the same may be rejected.

4] The learned counsel appearing for respondent nos. 2 and 3 invited our attention to the affidavit-in-reply filed on behalf of respondent nos. 2 and 3. It is submitted that, the office of respondent nos. 2 and 3 received a complaint that, the petitioner was never admitted in Kamalnagar School and that she has produced a bogus mark sheet. In fact, the petitioner had passed her 7th standard from a Primary School at Bembra, Taluka Aurad. In pursuance of the said complaint, the Chief Executive Officer directed the C.D.P.O., Udgir to make an enquiry and submit the report. The Officer from the office of C.D.P.O. Udgir visited the places namely, Primary School at Bembra, Taluka Aurad, Maroti Primary School, Kamalnagar and Nirmalpuri Vidyalaya, Her, Taluka Udgir, District Latur. It is submitted that, when the Officer visited those places, it was found that, Maroti

Primary School, Kamalnagar was not in existence. It was also found that, the petitioner had studied 1st to 7th standard in Primary School at Bembra. The Officer also received a copy of school leaving certificate and admission extract from the said school. It was found that, the petitioner had left the school after passing 7th standard in April, 1993. The Officer also could get the marks memo of the petitioner of 7th standard showing that she had secured 225 marks of 600 marks. It was also found that, after leaving the school at Bembra, the petitioner got admission in Jyoti High School, Thana Kusnur, Taluka Aurad in 8th standard. Thereafter, the petitioner left the said school and got admission in Nirmalपुरी Vidyalaya, Her, Taluka Udgir. It is submitted that, the petitioner has also got copy of school leaving certificate from Nirmalपुरी Vidyalaya, Her, and Jyoti High School Kusnur.

5] It is submitted that, the documents placed on record with reply clearly show that, the petitioner has completed her 1st to 7th standard from the School at Bembra and she secured 225 marks out of 600 marks. Therefore, she was not entitled to be appointed to the post of Anganwadi Helper. The learned counsel appearing for the respondent nos. 2 and 3 invited our attention to the copies of the documents, which are placed on record along with the reply and submitted that, the petition may be rejected.

6] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, and the learned counsel appearing for respondent nos. 2 and 3. With their able assistance, we perused the copies of the original certificates produced by the petitioner, and also the copies of documents placed on record with the affidavit

in reply of respondent nos. 2 and 3. Upon appreciating the rival contentions and the copies of the documents placed on record, and the original copies of original certificates on which the learned counsel appearing for the petitioner has placed reliance, this Court is of the opinion that, the petition raises disputed questions of facts. The petitioner claimed that, she studied from 1st to 7th standard in Maruti High School and Primary School at Kamalnagar. On the basis of enquiry conducted by respondent no.2, it is claimed that, the petitioner studied from 1st to 7th standard in Primary School at Bembra. It is not desirable to consider the documents and find out its evidentiary value while exercising extraordinary writ jurisdiction.

7] It is the contention of the learned counsel appearing for the petitioner that, no proper opportunity of hearing on the nature

of the documents was afforded to the petitioner by respondent no.2. In that view of the matter, without interfering into the impugned orders, we deem it appropriate to direct respondent no. 2, to give an opportunity to the petitioner as also to respondent no. 3 to put forth their cases alongwith the original documents in support thereof and take decision afresh.

8] In the light of the discussion in the foregoing paragraphs, we direct respondent no. 2 to allow the petitioner to produce original documents / copies of original documents duly certified in respect of her claim, and also hear the petitioner and respondent no.3, and then pass the orders afresh.

9] Needless to observe that, respondent no. 2 will be at liberty to consider the documents placed on record or

maintained by the office of respondent no. 3 during the course of hearing. The petitioner and respondent no. 3 shall appear before respondent no. 2 on 22nd April, 2016. Respondent no. 2 shall hear them and take decision afresh on merits as expeditiously as possible, however, by 30th May, 2016, and communicate the said decision to the petitioner and respondent no.3. In case the petitioner succeeds on merits, needless to observe that, respondent no. 3 will have to recall the order dated 2nd May, 2014, terminating services of the petitioner, and restore the services of the petitioner. We make it clear that, we have not expressed any opinion on merits of the contentions raised by the parties before us, and it is left open for respondent no. 2 to take appropriate decision keeping in view the documents placed on record by the parties and after appreciating their contentions and in the

light of the relevant procedure / rules /
law.

10] Petition is disposed of on the above
terms. Parties shall act upon authenticated
copy of this order.

Sd/-

[SANGITRAO S.PATIL]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE