

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

WRIT PETITION NO.553 OF 2013

Maroti Laxmanrao Dahiwal,
Age 43 Years, Occu:Service
In the office of Assistant
Consolidation Officer, Kalamnuri
Dist. Parbhani **PETITIONER**

VERSUS

1] The State of Maharashtra,
Through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.

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

2] The Director of Land Records and
Settlement Commissioner,
Maharashtra State, Pune.

3] The Deputy Director of Land Records,
Aurangabad Region, Aurangabad.

4] The Superintendent,
Land Records, Parbhani. **RESPONDENTS**

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Mr.S.D.Dhongade, Advocate for Petitioner
Mr.B.V.Virdhe, AGP for Respondent Nos.1 to 4.

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

Date : 26.04.2016

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

1] Heard.

2] This Petition takes exception to the judgment and order dated 03.02.2012 passed by the Maharashtra Administrative Tribunal, Aurangabad [for short 'MAT'] in Original Application No.1232/1999, and further seeks direction to the respondents to regularize the services of the petitioner in accordance with the Government Resolution of the Year 2005 with all consequential benefits.

3] The learned counsel appearing for the petitioner submits that the MAT erred in holding that the petitioner has not rendered 10 years continuous service so as to extend the benefit of the said Government Resolution. He further submits that the other similarly situated persons have been granted benefit, however, the petitioner is deprived of that benefit which flows from the

Government Resolution dated 10.03.2005 issued by the Revenue and Forest Department, Government of Maharashtra. He further invites our attention to the judgment of the Hon'ble Supreme Court in the case of *Yashwant Arjun More and others Vs. State of Maharashtra and others in Civil Appeal No.4633 of 2007* decided on 11th August, 2011 and submits that, in the said case the High Court had rejected Writ Petition, whereas the petitioners therein approached the Hon'ble Supreme Court and in the aforesaid Civil Appeal, the Hon'ble Supreme Court directed the respondents to take action for regularization of the services of the appellants therein in accordance with the Government Resolution dated 10th March, 2005. He further invites our attention to the judgment delivered by the Hon'ble Supreme Court in the case of *Sandhya Vs. State of Maharashtra and others* and submits that in that case also the MAT

and High Court refused to grant relief to the petitioner therein on the ground the petitioner was not in the employment on the date when the Government Resolution dated 10th March, 2005 came into force. However, the Hon'ble Supreme Court allowed the appeal and directed the respondents to regularize the services of the petitioner therein. He further invites our attention to the unreported judgment of this Court in the case of *The State of Maharashtra & others Vs. Dnyanoba s/o. Gopalrao Sable in Writ Petition No.3024 of 2012*, decided on 26th June, 2015 and submits that, in respect of the similarly situated persons this Court has extended benefit of the said Government Resolution to the petitioners therein and directed the State to regularize the services of the respondent. Therefore, the learned counsel appearing for the petitioner submits that the Petition deserves to be allowed.

4] On the other hand, the learned AGP appearing for the respondent – State relying upon the affidavit-in-reply filed on behalf of respondent nos.1 to 4 submits that the petitioner worked as unpaid candidate from 16.08.1988 to 31.03.1993 in the office of Taluka Inspector of Land Records, Jintur. Thereafter, he remained absent from 01.04.1993 to September, 1999 in the Department. As per the order of the MAT, he joined the services in the month of September, 1999, in the office of the Taluka Inspector of Land Records, Jintur. Thereafter, he again remained absent from 29.10.2005 to 20.07.2007 and also from 12.06.2008 onwards. The learned AGP submits that the present petitioner has not completed the required period of 10 years in the Department as per the Government Resolutions dated 21st October, 1995, 22nd October, 1996, and as per the order passed by the Hon'ble

Supreme Court of India. He further submits that the petitioner never served continuously for more than 5 years in the Department, and therefore, he is not eligible as per the Government Resolutions dated 21st October, 1995, 22nd October, 1996 and 10th March, 2005, issued by the Revenue and Forest Department, Government of Maharashtra. He, therefore, submits that the Petition may be rejected.

5] We have considered the submissions of the learned counsel appearing for the petitioner, and the learned AGP appearing for the respondent – State. With their able assistance, perused the grounds taken in the Petition, annexures thereto, reply filed by respondent nos. 1 to 4 and in particular, the contents of the Government Resolution dated 10th March, 2005, issued by the Revenue and Forest Department, Government of Maharashtra, Mantralaya, Mumbai. The MAT has considered the Government Resolution dated 10th March,

2005 and also the length of services rendered by the petitioner. The MAT, on the basis of the material placed on record, reached the conclusion that the petitioner has not rendered continuous service for 10 years or more, and therefore, the benefit of the said Government Resolution cannot be given to the petitioner.

6] In the affidavit-in-reply filed by respondent nos. 1 to 4 in para 4 the factual details about the actual service rendered by the petitioner has been stated. We have carefully perused the judgment of the MAT and in our opinion the findings recorded by the MAT that the petitioner has not worked for 10 years or more continuously, are in consonance with the material placed on record.

7] As already observed, the benefit of the aforesaid Government Resolution dated 10th

March, 2005 can only be extended when 10 years or more service has been continuously rendered. The reliance placed by the learned counsel appearing for the petitioner in the case of *Yashwant Arjun More and others Vs. State of Maharashtra and others [supra]* is of no avail to the petitioner inasmuch as the petitioners therein had completed more than 10 years engagement, as has been observed in the second paragraph at page 6 of the judgment. In the case of *Sandhya Vs. State of Maharashtra and others [supra]*, the Hon'ble Supreme Court has considered altogether different fact situation inasmuch as in the facts of that case it was alleged by the respondent therein that on the date of issuance of Government Resolution dated 10th March, 2005, the appellant therein was not working on the said date, and therefore, was not entitled for regularization. The said contention came to be repelled by the Hon'ble

Supreme Court and the petitioner therein was ordered to be regularized in the service. An issue of rendering service for 10 years or more was not involved in that case. In the case of *State of Maharashtra and others Vs. Dnyanoba s/o. Gopalrao Sable* [supra], the Division Bench of this Court considered altogether different factual aspect inasmuch as the respondent therein admittedly completed more than 10 years service and therefore he was held to be entitled for the benefits provided in the Government Resolution dated 10th March, 2005.

8] In the light of the discussion in foregoing paragraphs, it clearly emerges that the petitioner has not rendered service continuously for 10 years or more as required under the Government Resolution dated 10th March, 2005, so as to avail of the benefit of the said Government Resolution for regularizing his services. The findings

recorded by the MAT on appreciation of the documents on record about the actual service rendered by the petitioner with the respondent is in consonance with the documents placed on record, there is no perversity as such. Therefore, in our considered view, the Petition deserves no consideration. Hence the same stands rejected. No costs.

Sd/-
[SANGITRAO S.PATIL]
JUDGE

Sd/-
[S.S.SHINDE]
JUDGE