

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

**WRIT PETITION NO. 11227 OF 2014
WITH WP/11214/2014 WITH CA/16512/2015 IN WP/11214/2014
WITH CA/15619/2015 IN WP/11227/2014**

BHAGWAN JANARDHANRAO KHATAVKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Kedar Shrimant R.
AGP for Respondent/State : Mr. S.K. Tambe
Advocate for Respondent nos. 2 to 4 : Mr. Aghav Avinash D.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: February 03, 2016

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PER COURT :-

These Petitions take exception to the order passed by the Respondent - Chief Executive Officer, Zilla Parishad, Beed on 20th November, 2014. The learned counsel appearing for the petitioners invited our attention to the order passed by the Chief Executive Officer, Zilla Parishad, Beed on 10th September, 2014, and submits that, in pursuant to the directions given by this Court to the Chief Executive Officer, Zilla Parishad, Beed in Writ Petition No. 4294/2014, the orders dated 10.09.2014 have been passed by the Respondent No.2. It is submitted that, the said orders dated 10th September, 2014, are recalled by the same Authority by issuing another order dated 20th November, 2014, without hearing the petitioners and therefore, since the said orders are without adherence to the principles of the natural justice, same deserve to be

quashed and set aside.

2. Without prejudice to the aforesaid contention, alternatively, the learned counsel appearing for the petitioners, on instructions, makes oral prayer to withdraw the Petitions so as to avail an appropriate remedy, as available in law.

3. The learned counsel appearing for the Respondent Nos. 2 to 4 submits that, the orders dated 10th September, 2014 issued by the Respondent No.2 were in breach of procedure established for granting promotion and therefore, realizing the irregularities committed while granting such promotions, very same authority by orders dated 20th November, 2014, has recalled the orders dated 10.09.2014 and cancelled the promotion granted in favour of the petitioners. Therefore, the learned counsel submits that, the Petitions may be rejected.

4. We have heard the learned counsel appearing for the petitioners, the learned A.G.P. appearing for the Respondent No.1, and the learned counsel appearing for the Respondent Nos.2 to 4. With their able assistance, we have perused the pleadings in the Petitions, annexures thereto and reply filed by the Respondent Nos. 2 to 4.

5. At the outset, an oral prayer made by the learned counsel appearing for the petitioners to withdraw the Petitions so as to avail the alternate remedy for redressal of grievance raised in these Petitions, stands rejected, in

view of the fact that, the Petitions are pending for considerable period, and the petitioners in view of interim orders passed by this Court are working on the promotional posts.

6. It appears that, the petitioners filed Writ Petition No. 4295/2014. The said Petition was heard on 26th May, 2014, when this Court was pleased to grant ad-interim relief in terms of prayer clause `C'. The said prayer clause `C' reads thus :-

“Prayer clause (C) : Pending hearing and final disposal of this Writ Petition, the execution, implementation and operation of the impugned letter dated 05.12.2013, issued by the Chief Executive Officer, Zilla Parishad, Beed may kindly be stayed to the extent of petitioner.”

7. It further appears that, on 26th August, 2014, the said Writ Petitions were disposed of by the Division Bench of this Court with directions to the Respondent Authorities to decide the representation given by the petitioners with regard to their appointments as Extension Officer (Education)/Cluster Chief on its own merits, as expeditiously as possible, preferably within three months. Upon perusal of the aforementioned order, it is abundantly clear that, this Court only directed to decide the representations on their own merits, and not directed the Respondent No.2 to grant regular promotion to the petitioners on the post of Extension Officer (Education) in

pay scale of Rs.9300-34800 Grade Pay 4400. However, to the utter surprise of this Court, the Respondent No.2 while passing the order dated 10th September 2014, in the said order observed thus :-

“ व संदर्भ क्र. ७ अन्वये मा. उच्च न्यायालय खंडपीठ औरंगाबाद यांचे आदेश असल्यामुळे संबंधितास विस्तार अधिकारी (शिक्षण) या पदी ९३००-३४८०० ग्रेड पे ४४०० या वेतनश्रेणीत त्यांच्या नावासमोर दर्शविलेल्या रिक्त पदावर पदोन्नतीने पदस्थापना देण्यात येत आहे.”

8. Since the Respondent no.2 is represented by the learned counsel and the reply is filed, we wish to comment about the then Chief Executive Officer, Zilla Parishad, Beed. Respondent No.2 is the Chief Executive Officer of Zilla Parishad, Beed, who acts as Head of the Zilla Parishad. He is supposed to perform his duties keeping in view the relevant rules and procedure and after properly reading the orders passed by the Competent Court and to issue orders in accordance with relevant rules and procedure established. However, as already observed, concerned Officer who was discharging his duties as Chief Executive Officer, at relevant time, in Zilla Parishad, Beed by misreading and misinterpreting the order passed by this Court on 27th August, 2014 in Writ Petition No. 4294/2014, mentioned in the office orders dated 10th September, 2014 that, in view of the directions issued by the High Court, the petitioners are appointed by way of promotion on the post of Extension Officer (Education). It is not possible to accept that, the Officer of the rank of Chief Executive Officer, who

controls the affairs of the Zilla Parishad, did not understand the purport of the order passed by this Court and the directions issued to decide the representations on its own merits.

9. The learned counsel appearing for the Respondent Nos. 2 to 4 informed this Court that, already the said Officer, who was working as Chief Executive Officer, is placed under suspension and enquiry is initiated against him. We hope and expect that, while causing such enquiry, the respondent no.1 will look into the conduct of the said Officer who was working as Chief Executive Officer, at relevant time, while passing the impugned order dated 10th September, 2014, granting appointment on promotion to the petitioners, on the post of Extension Officer (Education) in the pay scale of Rs. Rs.9300-34800 Grade Pay 4400, observing in the said order that, the High Court has issued directions to grant such promotion, even though such directions were not issued and take appropriate steps to cause inquiry in that respect also.

10. Coming to the submission of the learned counsel appearing for the petitioners that, no principle of natural justice have been followed before passing the order dated 20th November, 2014, while recalling the order dated 10th September, 2014 is concerned, in our opinion, the order dated 20th November, 2014, is self speaking. It appears that, the order dated 10th September, 2014, was passed in breach of the procedure established, and by misreading and

misinterpreting the orders passed by the High Court and therefore, another Officer, who joined in place of earlier Officer as Chief Executive Officer, was justified in recalling the orders dated 10.09.2014 passed by his predecessor, since said order was illegal. We have serious doubt about even the conduct of the petitioners. However, we refrain ourself to comment any further on the said aspect.

11. In that view of the matter, in our considered opinion, the order dated 10th September, 2014, passed by the then Officer who was working as Chief Executive Officer, Zilla Parishad, Beed at the relevant time, itself was by misinterpreting and misreading the orders passed by the High Court and therefore, such illegal orders passed in breach of procedure established, has been rightly recalled and corrected by the respondent No.2, by correcting the order dated 20th November, 2014. Therefore, for the reasons aforesaid, the conduct of the petitioners disentitled them to seek any equitable and discretionary relief from the writ Court.

12. In that view of the matter, the Petitions stand rejected.

13. In view of the disposal of Writ Petitions, the Civil Applications, if any, stand disposed of accordingly.

(**P.R. BORA, J.)**

(**S.S. SHINDE, J.)**

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