

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1076 OF 2015

(Umesh s/o Shaligram Hiradkar and others vs. The State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : MARCH 18, 2016

Heard Adv. Talekar for petitioners, Ms. Rane, learned Assistant Government Pleader for respondent nos.1 and 2, and Adv. Saboo for respondent nos.3 to 6.

This Court on 29/2/2016 indicated that on 7/3/2016 matter shall be disposed of finally even if it is not argued. Today, learned Assistant Government Pleader has served copy of reply affidavit upon petitioners as also upon other respondents. The reply affidavit is taken on record.

During hearing, we find that Original Application No. 662/2012 is still pending before Maharashtra Administrative Tribunal at Nagpur. Interlocutory order dated 8/5/2014 passed therein has been assailed by petitioners, who have already been

selected and appointed because of recommendations in their favour by respondent no.2 MPSC.

The Maharashtra Administrative Tribunal by interlocutory order has directed recasting of select list to find out whether any of the appointed candidates is required to be disturbed if the exercise as proposed by the applicants before it is directed to be undertaken.

The reply affidavit placed on record by respondent no.2 reveals that several such candidates may be displaced and they may lose their employment if list is recast. The direction issued by the Maharashtra Administrative Tribunal is only interim in nature and final effect of removing appointed persons cannot flow from it.

We also find that findings recorded at interlocutory stage cannot eclipse consideration of matter at final stage.

In this situation, when this Court has on 27/2/2015 by appropriate interim order directed respondent no.1 not to terminate service of petitioners, we continue that direction till adjudication of Original Application No. 662/2012 by Maharashtra Administrative Tribunal finally.

Adv. Saboo for respondent nos.3 to 6 has attempted to demonstrate that State Government

itself has moved respondent no.2 MPSC pointing out that even if list is recast, in view of available vacancies, none of the selected and appointed candidates is required to be displaced. The said exercise can also be undertaken before Maharashtra Administrative Tribunal.

In this situation, we grant respondents leave to file appropriate affidavits within a period of four weeks before Maharashtra Administrative Tribunal. The petitioners shall thereafter file their rejoinder to those affidavits within further period of two weeks.

The Maharashtra Administrative Tribunal shall then attempt to decide the matter finally as early as possible and in any case by 15/7/2016.

Interim orders granted by this Court protecting employment of petitioners shall continue to operate till then.

With above directions and keeping all rival contentions open, the petition is disposed of. No costs.

JUDGE

JUDGE

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