

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1251 OF 2017

Smt. Rama Govind Giri

Petitioner

Versus

The State of Maharashtra and another

Respondents

Mr.V. H. Dighe h/f Mr. V.B. Wagh advocate for the petitioner

Mr.V.M. Kagne, AGP for Respondent No.1

Mr. K.J. Suryawanshi advocate for respondent No.2.

CORAM : V.M. KANADE &
SANGITRAO S. PATIL, JJ

(Date : 1st February, 2017.)

PER COURT :-

1 Heard learned counsel appearing on behalf of the petitioner. In the morning learned counsel appearing on behalf of respondent No.2 submitted that, he has filed caveat and he, therefore sought a week's time. We directed learned counsel appearing on behalf of the petitioner to hand over a copy of the petition to respondent No.2. Copy of the petition was handed over to respondent No.2 and matter was kept in the afternoon session at 2.30 p.m..

2 It is an unique case where the respondent No.2 who is junior to the petitioner in seniority, challenged the appointment of the petitioner before the Maharashtra Administrative Tribunal (MAT). The petitioner stands at Sr.No.78 and respondent No.2 at

Sr.No.86 in the seniority list. The petitioner was, therefore, appointed as Principal, Nursing Training Institute, Beed. Respondent No.2 challenged the said order by filing Original Application No.830/2016 before MAT, Aurangabad. The Tribunal noticed that the petitioner was not made a party to the said application and therefore, granted leave to amend. Respondent No.2 amended the Original Application. Without serving a copy of the application, learned Tribunal was pleased to pass final order, allowing the Original application of the respondent No.2 and setting aside the order of appointment of the petitioner as a Principal of Nursing School and appointed respondent No.2 in her place.

3 We find that the said order is in breach of principles of natural justice. Admittedly, though the petitioner was added as a respondent in the Original Application, on the same day, the original application was finally disposed of, without giving any opportunity to the petitioner. This fact is not denied by learned counsel appearing on behalf of respondent No.2. In fact, the order itself clearly indicates that, the application was made absolute on the first date, without giving notice to the petitioner. On this ground, the impugned order is liable to be set aside.

4 Petition, is, therefore, allowed in terms of prayer clause 'B'. We remand the matter back to the Tribunal. The Tribunal shall, after giving hearing to both parties, decide the Original Application, expeditiously and preferably within a period of four weeks. Both the parties shall appear before the Tribunal along with copy of this order on 14.2.2016 at 11.30 a.m..

(SANGITRAO S. PATIL, J)

(V.M. KANADE, J)

vbd