

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 57 OF 2017
IN WP/11456/2016 WITH RA/58/2017 IN WP/11463/2016 WITH
RA/59/2017 IN WP/11454/2016 WITH RA/60/2017 IN
WP/11462/2016 WITH RA/61/2017 IN WP/11458/2016 WITH
RA/62/2017 IN WP/11452/2016 WITH RA/63/2017 IN
WP/11459/2016 WITH RA/64/2017 IN WP/11453/2016 WITH
RA/65/2017 IN WP/11457/2016 WITH RA/66/2017 IN
WP/11460/2016 WITH RA/67/2017 IN WP/11461/2016 WITH
RA/68/2017 IN WP/11464/2016 WITH RA/69/2017 IN
WP/11455/2016

SMT VITHABAI VASANT KSHIRSAGAR
VERSUS
THE COMMISSIONER ANIMAL HUSBANDRY PUNE AND OTHERS

Mr.P.V.Barde, Advocate for the applicants.
Mr.A.V.Gondhalekar, AGP for State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 20/11/2017

PER COURT :

1. Since the judgment delivered by this Court dated 07/12/2016, which is sought to be reviewed by the applicants, has been delivered in a group of writ petitions as identical set of facts were involved, I have heard the submissions of the learned Advocates for the respective sides by consent. All the review applications are therefore taken up together.

2. Mr.Barde, learned Advocate for the applicants specifically submits that their review applications are based on a document which was not brought to the notice of this Court. He submits that a review application cannot be argued as if an appeal proceeding or a writ petition is being taken up. However, if a specific document, which is likely to have a significant impact on the cases put forth by the review applicants, has not been cited before the Court when all the writ petitions were decided, it would be a good ground for considering the review applications.

3. He has referred to a communication dated 28/01/2010 issued by the Under Secretary, Maharashtra State to the Commissioner of Animal Husbandry stating that a meeting had taken place between the Akhil Bhartiya Safai Mazdoor Congress, Pune and the representatives of the Department of Animal Husbandry under the Chairmanship of Deputy Secretary Smt.Chitnis on 15/01/2010. The minutes of the meeting are, therefore, referred to the Commissioner of Animal Husbandry by the said Under Secretary. Mr.Barde submits that this letter was not pointed out when this Court decided the writ petitions.

4. He then refers to the minutes of the meeting held on 15/01/2010 and contends that at Sr.No.1 on the first page of the minutes of the meeting, the demand of the Union has been reproduced in the 2nd column and the decision taken by the Government is in the third column facing the description of the demand. He, therefore, submits that as these minutes of the meeting were not pointed out to this Court when the writ petitions were decided, this Court has lost sight of the fact that a specific decision has been arrived at by the Government and the eligibility criteria for time bound promotion and Assured Progress Scheme has been diluted.

5. He then points out a circular dated 15/02/2010 issued by the Commissioner of Animal Husbandry stating that the concerned Department was directed to initiate steps for considering the cases of employees as like these applicants for grant of time bound promotion and assured progress benefits expeditiously. He submits that even this document was not pointed out to this Court.

6. Learned AGP appearing on behalf of the original petitioners relies upon the affidavit in reply filed by the Senior Administrative Officer working in the office of the Regional Joint Commissioner of

Animal Husbandry dated 06/04/2017 and the annexures appended thereto. The learned AGP points out from paragraph No.8 of the reply that the Department of Animal Husbandry as well as the State Government has not arrived at a policy decision that the Educational eligibility criteria applicable to the employees as like the appellants for seeking benefits of the scheme, should be diluted. In fact, as the applicants have pointed out some stray cases wherein the benefits of the schemes were extended to the employees who were less than 8th standard pass, have alerted the competent authorities and the said authorities are now contemplating the withdrawal of the said benefits granted at the regional level without authorization.

7. The learned AGP further points out the communication dated 15/04/2010 to indicate that the said Akhil Bhartiya Safai Mazdoor Congress, Pune, which is a Union, had threatened an agitation of commencing a fast unto death. It was under such a threat that the Animal Husbandry Department convened a meeting between the Union representatives and the Management so as to diffuse the situation. The contention of the applicants with regard to the 3rd column at Sr.No.1 in the minutes of the meeting, is in fact not a settlement or an agreement between the parties. The title of the 3rd column would indicate that the concerned Department had

expressed an opinion. The Marathi words “शासनाचे अभिप्राय” means the opinion of the State with regard to the demand of the Union. It is specifically stated in the said third column that the decision to relax the age qualification would be considered by the General Administration Department of the State and it would only be on obtaining their sanction that the things could be carried forward.

8. I find that the writ petitions decided by this Court were in connection with the judgment of the Industrial Court dated 22/07/2016 delivered in a group of ULP complaints. The contention of the applicants is that the minutes of the meeting would tantamount to a settlement. I do not find that the said contention can be sustained since a settlement is specifically defined u/s 2(P) of The Industrial Disputes Act, 1947 and such a settlement, in order to be made enforceable under the Labour Legislation, has to be arrived at between the parties u/s 18(1) or 18(3) of the Industrial Disputes Act, 1947 r/w Rule 62(4) of the Industrial Disputes (Bombay) Rules, 1957.

9. Notwithstanding the above, it is apparent from the 3rd column set out at Sr.No.1 in the minutes of the meeting dated 15/01/2010 that the Department had expressed a view of considering the request

of the Union to relax the educational qualification as an eligibility criteria for extending the benefits under the said scheme. It was purely a view expressed and not a decision taken. Moreover, this view was made subject to a sanction to be obtained from the General Administration Department of the State of Maharashtra. The learned AGP points out from the communication dated 16/04/2010 that the GAD had declined to sanction the said proposal and as such the said demand of the Union stood rejected.

10. Considering the above, I do not find that the contention of the applicants that the minutes of the meeting dated 15/01/2010 tantamount to a decision arrived at and have the effect of a settlement, could be sustained.

11. The review applications, being devoid of merit, are therefore rejected.

(RAVINDRA V. GHUGE, J.)