

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

WRIT PETITION NO. 3670 OF 2016
WITH CA/7056/2016 IN WP/3670/2016

KAVITA PARSHURAM RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.D.S.Mali, Advocate for the petitioner
Mr.P.S.Patil, AGP for the respondent/State
Mr.K.U. More, Advocate for respondent Nos. 3 to 5

**CORAM : S.V. GANGAPURWALA &
S.M. GAVHANE, JJ.**
DATED : 11.10.2017

P.C. :-

. Mr.Mali, learned counsel submits that petitioner was appointed as a 'Anganwadi Madatnis' under order dated 24.10.1994. Learned counsel submits that since the said date the petitioner is continuously officiating as a 'Anganwadi Madatnis'. On or about 13.08.2014 Government resolution is issued under the scheme of Integrated Child Development thereby laying down the terms and conditions for the appointment of 'Anganwadi Madatnis, Sevika'. The petitioner has begotten third child on 10.03.2015. On the said ground the service of the petitioner is terminated. According to the learned counsel when the Government Resolution dated 13.08.2014 was issued the child was already in the womb of the petitioner.

2. Mr. More, Learned counsel for the respondent Nos. 3 to 5 submits that considering the larger interest the government resolution dated 13.08.2014 is issued. The said G.R. has to be read strictly. After issuance of the government resolution dated 13.08.2014 the petitioner has begotten third child as such the order of termination passed is legal and proper.

3. We have considered the submissions. It is not disputed that the petitioner was appointed as a 'Anganwadi Madatnis' w.e.f. 24.10.1994 and since then she is continuously officiating till the order of terminating the services of petitioner. It is also not disputed by any of the learned counsel for the parties that prior to issuance of the government resolution dated 13.08.2014 there was no restriction on the appointment of 'Anganwadi Madatnis' qua number of children.

4. The government resolution dated 13.08.2014 specifically lays down that henceforth the candidates to be appointed should not have more than two children and if already they have two issues and if third child is born they would be liable for termination.

5. It would be seen that on 13.08.2014 when the

government resolution was issued the third child was already *en ventre sa mere*. The child was born on 10.03.2015. The petitioner certainly would not have visualized the notification being issued on 13.08.2014 when the child was in the womb before the said date. This Court in writ petition no. 11514/2014 under order dated 27.01.2016 had observed that the child having been born within three months after promulgation of the government resolution should not have been terminated. Considering the fact that the child was already in womb when the government resolution was issued, the petitioner certainly would be entitled for protection.

6. It is a matter of fact that the government resolution is issued with laudable object and purpose of the object has to be achieved. At the same time the circumstances also are required to be considered.

7. In the result the impugned order terminating services of the petitioner is quashed and set aside. The respondent shall reinstate the petitioner in service. The petitioner shall not be entitled for back-wages from the date of termination till reinstatement. The respondent shall reinstate the petitioner within fifteen days. However, the petitioner shall be entitled for the continuity in the service.

8. The writ petition accordingly allowed. No cost.
9. In view of the disposal of the writ petition, the Civil Applications, if any stands disposed of.

[S.M. GAVHANE, J.]

[S.V. GANGAPURWALA, J.]