

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3887 OF 2012

Kavita Bawa Padvi,
Age-27 years, Occu-Nil,
R/o Khuwarkhet (Bundepada),
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
5. The Divisional Commissioner,
Nasik Division, Nasik

– RESPONDENTS

WITH
WRIT PETITION NO.3888 OF 2012

Laxmi Aapsing Valvi,
Age-29 years, Occu-Nil,
R/o Karbhripada (Zapi),
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
 2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
 3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
 4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
 5. The Divisional Commissioner,
Nasik Division, Nasik
- RESPONDENTS

WITH
WRIT PETITION NO.3889 OF 2012

Surekha Yuvraj Sonwane,
Age-40 years, Occu-Nil,
R/o at Bhabri, Post – Toranmal,
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,

Dist.Nandurbar,

3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
5. The Divisional Commissioner,
Nasik Division, Nasik

– RESPONDENTS

WITH
WRIT PETITION NO.3890 OF 2012

Sindhubai Devising Vasave,
Age-27 years, Occu-Nil,
R/o Lakdyapada (Zapi),
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,

Dist.Nandurbar,

5. The Divisional Commissioner,
Nasik Division, Nasik – RESPONDENTS

WITH
WRIT PETITION NO.3892 OF 2012

Vasanti Shivnya Pawra,
Age-25 years, Occu-Nil,
R/o At Post Patilwada (Bhadal),
Tq.Dhadgaon, Dist.Nandurbar – PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
5. The Divisional Commissioner,
Nasik Division, Nasik – RESPONDENTS

WITH
WRIT PETITION NO.3891 OF 2012

Kanta Jerma Paradke (Valvi),
Age-40 years, Occu-Nil,

R/o Goramba (Gaothan),
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
5. The Divisional Commissioner,
Nasik Division, Nasik

– RESPONDENTS

WITH
WRIT PETITION NO.3893 OF 2012

Meena Jahagir Padvi,
Age-32 years, Occu-Nil,
R/o at Post Kuwarkhet (Baflipada),
Tq.Dhadgaon, Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,

2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
 3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
 4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
 5. The Divisional Commissioner,
Nasik Division, Nasik
- RESPONDENTS

WITH
WRIT PETITION NO.3935 OF 2012

Mangla Khema Padvi,
Age-39 years, Occu-Nil,
R/o Savryadigar, Tq.Dhadgaon,
Dist.Nandurbar

– PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,

Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,

5. The Divisional Commissioner,
Nasik Division, Nasik – RESPONDENTS

WITH
WRIT PETITION NO.3944 OF 2012

Sunita Tukaram Pawra,
Age-28 years, Occu-Nil,
R/o at Post Udadya,
Tq.Dhadgaon, Dist.Nandurbar – PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai-32,
2. Chief Executive Officer,
Zilla Parishad, Nandurbar,
Dist.Nandurbar,
3. Deputy Chief Executive Officer,
(Child Development Department),
Zilla Parishad, Nandurbar,
Dist.Nandurbar
4. Child Development Project Officer,
Integrated Child Development
Department, Dhadgaon, Tq.Dhadgaon,
Dist.Nandurbar,
5. The Divisional Commissioner,
Nasik Division, Nasik – RESPONDENTS

Mr.A.D.Pawar, Advocate for the petitioners.
Mr.S.P.Tiwari, AGP for respondent Nos.1 and 5.
Mr.P.S.Patil, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 01/03/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. In all these petitions, the petitioners who were working as 'Anganwadi Sevika' in various villages falling within the jurisdiction of the Zilla Parishad, Nandurbar, are aggrieved by their orders of termination, the impugned orders of respondent No.2 C.E.O., Zilla Parishad sustaining their terminations and the orders of the Divisional Commissioner, Nasik Division, Nasik thereby rejecting their appeals.
3. Leave to add the Divisional Commissioner, Nasik, as respondent No.5. Learned AGP waives notice on behalf of respondent No.5.
4. In the light of the order that I intend to pass, I am not required to consider the entire submissions of the learned Advocates for the litigating sides.

5. It is settled law that an applicant who applies for appointment as 'Anganwadi Sevika' has to be a resident of the said village and must be residing in the said village. All these petitioners have been terminated after issuance of show cause notices dated 12/05/2009 and after considering their reply. The reason for termination is that they are not the residents of the concerned villages and are not residing in the said villages.

6. I have heard Mr.Pawar, learned Advocate for the petitioners on the abovesaid issues at length. It is noticed that only in Writ Petition Nos. 3893/2012 (Petitioner - Mina Jahagir Padvi), 3935/2012 (Petitioner - Mangla Khema Padvi), 3944/2012 (Petitioner - Sunita Tukaram Pawra), 3891/2012 (Petitioner - Kanta Jerma Paradke (Valvi), the petitioners had produced some records before the Divisional Commissioner and it is specifically contended that the said record would prove that these 4 petitioners are the residents of their respective villages.

7. Mr,Patil, learned Advocate for the Zilla Parishad and the learned AGP on behalf of the State, vehemently submit that in all other cases except these above mentioned 4, there was no record available and the State noticed that all these 'Anganwadi Sevika' had

acquired employment by misrepresentation. In so far as the above mentioned 4 petitioners are concerned, both the learned Advocates submit that the said record was considered and thereafter the impugned judgments have been delivered.

8. In so far as remaining 5 petitions are concerned, the C.E.O. Zilla Parishad has come to a conclusive finding that these petitioners were not residing in their respective villages. The Appellate Authority has considered the record and proceedings and after hearing the sides, has concluded by the impugned judgment that the termination is justified as these petitioners are not residents of the concerned villages and are not residing in the said villages. In the light of these concurrent findings which appear to be reasoned orders and in the light of the fact that these 5 petitioners could not indicate from any statutory record that they were residents of the concerned village and were residing in the said village, I find no reason to hold that the impugned orders are perverse or erroneous.

9. Considering the law laid down by the Hon'ble Apex Court in the matters of Syed Yakoob Vs.K.S.Radhakrishnan and others, reported at AIR 1964 SC 477 and Surya Dev Rai Vs. Ram Chander Rai, reported at 2003(6) SCC 682, merely because a second view could be

possible, there cannot be any interference in the impugned orders and moreso when such orders are concurrent. As such, these 5 Writ Petition Nos.3887/2012, 3888/2012, 3889/2012, 3890/2012, 3892/2012 stand dismissed.

10. In so far as Writ Petition Nos. 3893/2012, 3935/2012, 3944/2012 and 3891/2012 mentioned above with the names of the petitioners are concerned, I find that though the impugned order of the Divisional Commissioner, Nasik is a speaking order, there seems to be a little reference to the documents supplied or produced by these 4 petitioners. It would not be enough if the deciding authority holds that it has considered the record. What is necessary is that the authority deciding the matters is not only expected to consider the records, is also expected to assign reasons as to why certain documents do not have probative value and as to why they need to be discarded. This is possible only by assigning reasons while delivering the orders. I do not find that this exercise has been undertaken by the Divisional Commissioner.

11. The petitioners have specifically taken a ground that the report of the Village Development Officer dated 18/11/2009 which indicates that these 4 petitioners are not residents of the village, was not

supplied to the petitioners. I do not find any effort made by these 4 petitioners either before respondent No.2 or in appeal before respondent No.5 praying for a copy of the said report. Merely raising a ground for the purpose of challenging the impugned order would not be sufficient if it is noticed that these petitioners did have a reasonable opportunity for seeking copies of the said report and have made no efforts in that regard.

12. Considering the above, WP Nos.3893/2012, 3935/2012, 3944/2012, 3891/2012 are partly allowed. The impugned orders of respondent No.5 dated 31/01/2011 in Anganwadi Appeal No.12/2010, Anganwadi Appeal No.11/2010, Anganwadi Appeal No.6/2010 and Anganwadi Appeal No.13/2010 are quashed and set aside and these 4 appeals are remitted back to respondent No.5 with the following directions :-

[a] These 4 petitioners and the litigating sides shall appear before respondent No.5 on 24/03/2017 at 3.00 p.m.

[b] On the date of appearance, respondent No.2 / Zilla Parishad shall supply a copy of the Village Development Officer's Report dated 18/11/2009 individually to these 4 petitioners, subject to the condition that costs of Rs.1,000/- per person shall be deposited with the Advocate's Association of the Bombay High Court, Bench at Aurangabad, considering the consent of the

learned Advocates for the respondents.

[c] This amount shall be deposited within 2 (two) weeks from today and the receipt of payment shall be produced before respondent No.5 on the date of appearance which shall be a condition precedent for receiving the copies of the report of the Village Development Officer.

[d] Respondent No.5/Appellate Authority would thereafter hear all the litigating sides on such dates as he may find it convenient and the appellants would co-operate in the said hearing.

[e] Respondent No.5 would consider the contentions of the parties and the entire record available and as may be produced by the petitioners, if any and pass a reasoned order by considering the said documents.

[f] Respondent No.5 would endeavour to decide these 4 matters as expeditiously as possible and preferably on or before 15/10/2017.

13. Rule is made partly absolute in the above 4 matters.

(RAVINDRA V. GHUGE, J.)