

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5911 OF 2008

Bharatbai w/o Nivrati Kankute,
Age-35 years, Occu-Household,
R/o Wassa, Tq. Jintur, Dist. Parbhani – PETITIONER

VERSUS

1. The State of Maharashtra,
Child Welfare Department,
Through G.P.
2. The Chief Executive Officer,
Zilla Parishad, Parbhani,
3. Project Officer,
Integrated Child Welfare Scheme,
Jintur, Tq.Jintur, Dist.Parbhani,
4. Rukhmini w/o Abasaheb Mutkule,
Age-36 years, Occu-Household,
R/o Wassa, Tq.Jintur,
Dist.Parbhani – RESPONDENTS

Mr.S.G.Shinde, Advocate for the petitioner.
Mr.B.A.Shinde, Advocate for respondent No.4.
Mr.S.K.Tambe, AGP for respondent No.1.

(CORAM : RAVINDRA V. GHUGE AND
SUNIL K. KOTWAL, J.J.)

DATE : 05/12/2017

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.)

1. By this petition, the petitioner seeks to challenge the appointment of respondent No.4 dated 21/08/2008 by which she has

been appointed as an "*Anganwadi Helper*" at Wassa, Tq.Jintur, Dist. Parbhani.

2. We have considered the strenuous submissions of the learned Advocate for the petitioner, the learned AGP on behalf of respondent No.1 and the learned Advocate on behalf of respondent No.4 / appointee. With their assistance, we have gone through the record available.

3. There is no dispute that the petitioner and respondent No.4 had applied for appointment as an "*Anganwadi Helper*" with reference to village Wassa, Tal.Jintur, Dist.Parbhani pursuant to the proclamation. Grievance of the petitioner is that though she has not been selected and respondent No.4 has been appointed, the appointment order is rendered illegal and unsustainable for the reason that respondent No.4 has submitted false information in the application dated 25/04/2007 while seeking appointment as an "*Anganwadi Helper*". It is specifically pointed out through the form placed on record that respondent No.4 has mentioned her social status as being a divorcee. She is not a divorcee, but is a deserted wife. This false information has not been scrutinized properly by the Appointing Authority and as such the impugned appointment order

is based on incorrect information.

4. The learned Advocate for respondent No.4 submits that she is an illiterate person. She may not have understood the difference between the 2 Marathi words used in the form which are “परितक्त्या / घटस्फोटीत”. He submits that respondent No.4 has mentioned her social status as “घटस्फोटीत” which means a divorcee. Her litigation with regard to her marital discord and the likely breaking up of the marital relations, was pending. She may not have understood the meaning of “परितक्त्या” which means a “deserted woman”.

5. We have considered the submissions of the learned Advocates for the respective sides. The impugned appointment order is dated 21/08/2008. More than 9 years have lapsed after the appointment of respondent No.4. After notice was issued in this matter on 26/11/2008, this Court had heard the learned Advocates for the respective sides on 28/06/2011 and had admitted the petition by refusing interim relief to the petitioner. Respondent No.4 has, therefore, continued in employment for almost a decade and has settled in employment. The petitioner is about 45 years of age today and is not eligible for seeking appointment in place of respondent No.4 in the event of the appointment of the latter being set aside. We

are, however, not considering this aspect as the primary ground for dismissing this petition.

6. On perusing of the application form of respondent No.4, clause (7) indicates 3 eventualities which in Marathi are stated as “विधवा/परितक्त्या/घटस्फोटीत”. The petitioner and respondent No.4 hail from a tiny village. Respondent No.4 cannot be said to be a highly educated person. She has taken primary education. We find that since the litigation of respondent No.4 with regard to the break down of her marriage was pending before the competent Court, she must have mentioned her status as “घटस्फोटीत”. A compromise between respondent No.4 and her husband has taken place in Misc. Appl.No.47/2005 wherein respondent No.4 had sought maintenance as her husband had left her and had deserted her. By the compromise, permanent maintenance of Rs.50,000/- was received by respondent No.4 and further claim for maintenance was given up by her. We find that it must have been in these peculiar facts that respondent No.4 mentioned her status as “divorcee” instead of a “deserted person”.

7. We could have better appreciated the contentions of the petitioner if there would have been no scope for entertaining an

application of a lady for appointment as an “Anganwadi Helper”, if the condition of “deserted” was not mentioned. We could have then concluded that the intention of respondent No.4 was to submit false information.

8. We have also perused the proclamation dated 21/12/2006 issued by the Integrated Child Development Project Officer wherein condition No.7 indicates that the applicant, if is a deserted person, should submit an affidavit of the Taluka Magistrate. Keeping the said condition in view and the fact that it is undisputed that respondent No.4 is a deserted person, we do not find that an error committed by respondent No.4 while filling up the form, could be termed as being an intentional and deliberate act of submitting false information. So also, she has now been working as an “*Anganwadi Helper*” for almost a decade and she is about 46 years of age.

9. In the above backdrop and considering the breakdown of her marriage, we do not find that this petition could be entertained. The writ petition, being devoid of merit, is therefore, dismissed. Rule is discharged.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)