

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

WRIT PETITION NO. 596 OF 2017

Kanchan Arjun Pingale,
Age : 28 years, Occupation : Nil,
R/o Shirapur (Dhumal),
Tq.Shirur (k.), District Beed.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai.
- 2 The Divisional Commissioner,
Aurangabad, District Aurangabad.
- 3 The Chief Executive Officer,
Zilla Parishad, Beed.
- 4 The Child Development Project Officer,
Integrated Child Development Scheme,
Shirur (K.), District Beed.
- 5 Aashabai Manohar Gavate,
Age : Major, Occupation : Household,
R/o Shirpur (Dhumal), Tq.Shirur (K.),
District Beed.

...RESPONDENTS

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Advocate for Petitioner : Shri Bhosale Mahesh S.
AGP for Respondents 1 and 2 : Shri S.P.Tiwari.
Advocate for Respondents 3 and 4 : Shri A.A.Shelke h/f Shri
PD.Suraywanshi.
Advocate for Respondent 5 : Shri N.K.Tungar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th March, 2017

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Petitioner is aggrieved by the selection of Respondent No.5 as an Anganwadi Sevika. The Petitioner is also aggrieved by the order delivered by Respondent No.2 dated 01.02.2016 thereby, rejecting the Petitioner's appeal.

3 The Petitioner's contention is that the Government Resolution dated 13.08.2014 has not been properly followed by the Respondents while selecting Respondent No.5 for the position of Anganwadi Sevika.

4 There is no dispute that the Petitioner as well as Respondent No.5 reside in the same village for which the proclamation was issued for appointment of Anganwadi Sevika. There is also no dispute that both the Petitioner and Respondent No.5 have acquired 75 marks and stand equal in the order of merit list.

5 The grievance of the Petitioner is that clause (3) of the Government Resolution dated 13.08.2014 has not been properly considered. It is contended that five marks granted to both the Petitioner and Respondent No.5 are with reference to their educational qualifications. Since both have acquired maximum five marks and are equal at an aggregate of 75 marks, their age must be considered and since the Petitioner is senior by one year to Respondent No.5, she should have been appointed.

6 There is no dispute that the required qualification for Anganwadi Sevika is 10th standard and for Madatnis it is 7th standard. If no candidate having SSC qualification is available, the qualification can be relaxed to 9th standard for Anganwadi Sevika. The Petitioner is a Graduate having acquired Bachelor of Arts (BA) certificate. Respondent No.5 has also acquired Bachelor of Arts (BA) certificate and she has passed her D.Ed. and B.Ed. at the time of her selection as Anganwadi Sevika.

7 The relevant portion of clause (3) of the Government Resolution dated 13.08.2014 reads as under :-

"..... परंतु, उमेदवाराची निवड निश्चित करताना एकापेक्षा जास्त उमेदवारांना सारखेच गुण प्राप्त झाल्यास अशा

प्रसंगी सर्वात जास्त शैक्षणिक अर्हता असलेल्या उमेदवाराची निवड करावी. शैक्षणिक पात्रता सुद्धा समान असल्यास जास्त वय (जन्मदिनांक) असलेल्या उमेदवाराची निवड करावी. सदर निकष लागू नही गुणवत्ताक्रम समान येत असल्यास चिड्डी टाकून निवड करावी....."

8 Considering the plain reading of the reproduced portion of the Government Resolution as above, if the total marks acquired by more than one candidate are same, one who has acquired more educational qualification will have to be preferred. None of the litigating sides have indicated any judicial pronouncement of this Court or of the Honourable Supreme Court whereby the significance of additional qualification vis-a-vis the job for which the application is made, has been considered in relation to the appointment of an Anganwadi Sevika. One cannot read more than what meets the eye.

9 It is plainly stated in the Government Resolution as reproduced above that one who has more educational qualification, would be preferred amongst those candidates who have scored equal marks. As Respondent No.5 has acquired the qualifications of BA, D.Ed. and B.Ed. in comparison to the Graduation Certificate of the Petitioner, the Authorities,

in my view, have rightly selected Respondent No.5 for the post of Anganwadi Sevika. The impugned order, therefore, cannot be termed as being perverse or erroneous.

10 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)