

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

WRIT PETITION NO. 8435 OF 2015

Udaygiri Yuvak Mitra Mandal,
Nawandi, Tq. Udgir, Dist. Latur .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Hon, Senior Advocate i/by Shri G. V. Mohekar,
Advocate for the Petitioner.
Ms. R. P. Gaur, A.G.P. for Respondent Nos. 1 and 2.
Shri R. K. Ingole Patil, Advocate for the Respondent No. 3.

**WITH
WRIT PETITION NO. 10216 OF 2015**

Vijay Uttam Chavan and others .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Salunke, Advocate for Petitioners.
Ms. R. P. Gaur, A.G.P. for the Respondent No. 1.
Shri M. V. Ghatage, Advocate for the Respondent No. 2.
Shri R. K. Ingole Patil, Advocate for the Respondent No. 3.
Shri G. V. Mohekar, Advocate for Respondent Nos. 4 and 5.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

Closed for Orders on : 07.04.2017

Order Pronounced on : 19.04.2017

ORDER (Per S. V. Gangapurwala, J.) :-

. Writ Petition No. 8435 of 2015 is filed by the Mandal/society. Initially the said writ petition was filed seeking directions against the respondent authorities to grant approval to five staff members appointed in the physically handicapped school i. e. Nivasi Apang Vidyalaya, Koutha run by the petitioner Udaygiri Yuvak Mitra Mandal, Nawandi. Writ Petition No. 10216 of 2015 is filed by persons claiming to have been appointed as employees of Nivasi Apang Vidyalaya, Koutha. The employees said to have been appointed for which approval was sought in Writ Petition No. 8435 of 2015 are different than the petitioners in Writ Petition No. 10216 of 2015. During the pendency of Writ Petition No. 8435 of 2015 the proposals submitted seeking approval to the appointments of five staff members are rejected on 27.11.2015. By the amendment said order is also assailed.

2. Mr. Hon, the learned senior advocate along with Mr. G. V. Mohekar, learned counsel for the petitioner in Writ Petition No. 8435 of 2015 submits that, the petitioner institution had appointed five staff members on the vacant posts and proposals seeking their approval to their appointments were forwarded to the respondent No. 3. As per the staffing pattern and as per Government Resolution dated 18.08.2004, posts of these five staff members were admissible. In the year 2012 five staff members were appointed as detailed in para seven of the petition. Their

proposals were submitted in July 2015 for approval to the respondent No. 3. The same are erroneously rejected. The advertisement was issued on 31.05.2012. The interviews of the candidates were held on 10.06.2012. Five persons were selected and as such their proposals seeking approvals were forwarded to the respondent No. 3. The said proposals are wrongly rejected. The grounds for rejection are erroneous and do not stand to any reason. According to the learned senior advocate the appointments of five staff members, whose proposals were submitted by the institution were made in accordance with procedure. The same were in consonance with the Clause 64 of the Handicap School Code, 1997. It does not specify the nature of news paper in which the advertisement is to be given, as such rejection of the proposals on the ground that advertisement is not given in B class news paper is erroneous. The roster for approval is already submitted to the B. C. Cell. The same is not yet received. It is also not necessary to invite the District Social Welfare Officer while selecting the candidates. It also cannot be said that the proposals were incomplete. The order is illegal.

3. Mr. Salunke, the learned counsel for petitioners in Writ Petition No. 10216 of 2015 submits that, the petitioners are appointed in the year 2011 vide appointment orders issued by the institution. On 01st July, 2013 proposals were submitted seeking approval to appointments of these petitioners. The same are not yet decided. According to the learned counsel, the endorsement

is also on record showing that on 01st July, 2013 the proposals are received by the office of the District Social Welfare Officer. The documents are filed on record to substantiate the case of the petitioners. According to the learned counsel, the entire procedure is followed. Advertisement was given, interviews were conducted and after following the selection process, the petitioners are appointed. Even joining letters are given. The appointment orders are also placed on record sent by the then Secretary of the institution. According to the learned counsel, it is erroneous on the part of the respondent No. 3 to state that, it has not received the said proposals, when in fact, same were tendered in the office of the respondent No. 3. It is for the respondent No. 3 to check its record.

4. Mr. Ingole Patil, the learned counsel for the District Social Welfare Officer/respondent No. 3 submits that, proposals of the staff members and the persons as suggested in Writ Petition No. 8435 of 2015 have been rightly rejected. Roster is not approved by the B. C. Cell, so as to confirm about filling of the backlog of the reserved category candidates. The selection process was not properly adhered to. The publication is not in Class B news paper having wide circulation. Even the District Social Welfare Officer was never intimated prior to the advertisement. Surplus candidates were required to be absorbed. For all the reasons stated in the order the proposals are rightly rejected. The learned counsel further submits that, the District Social Welfare

Officer never received the proposals of the petitioners in Writ Petition No. 10216 of 2015. Even the inward register of the office of the respondent No. 3 does not state about the receipt of any such proposal of these petitioners.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. Though, the petitioner in Writ Petition No. 8435 of 2015 contend that, the petitioners in Writ Petition No. 10216 of 2015 are not at all appointed, nor the person appointing them was authorized to appoint them and was further not authorized in the year 2013 to submit the proposals, as he was not the secretary at that time. We are not inclined to go into the said aspect. There are allegations and counter allegations. The petitioners in Writ Petition No. 10216 of 2015 submit that, the advertisement is issued on 31.05.2012 and if their appointment orders are perused, the reference to the application made by the applicants is prior to the advertisement.

7. The petitioners in both these writ petitions assert their rights. It appears that, there were five posts required to be filled in the Nivasi Apang Vidyalaya, Koutha. The petitioners in Writ Petition No. 10216 of 2015 claim to have been appointed on those posts in the year 2011, whereas the petitioner in Writ Petition No. 8435 of 2015 claims to have appointed different five persons

on the said posts. The petitioners in Writ Petition No. 10216 of 2015 claim to have been appointed in the year 2011. The petitioner in Writ Petition No. 8435 of 2015 claims to have appointed five staff members in the year 2012. Though, it is stated in Writ Petition No. 8435 of 2015 that the appointments are made in the year 2012, the proposals are submitted on 29.07.2015. Whereas in Writ Petition No. 10216 of 2015, though the petitioners claim to have been appointed in the year 2011, their proposals are alleged to be submitted in the year 2013.

8. The proposals of the persons submitted by the petitioner in Writ Petition No. 8435 of 2015 seeking approval to the appointments of five staff members are rejected. It is submitted that, the roster is forwarded to the B. C. Cell for its approval. It is for the B. C. cell to approve the same. Upon reading Clause 64 of the Handicap School Code, 1997, it does not appear that while selecting a candidate, a person from District Social Welfare Office is required to be a member of the selection committee. At least no such rule is pointed out, nor it is anywhere stated that advertisement has to be published in Class B news paper. The said grounds for rejection do not seem to be proper. Of course, whether the appointments are made by following proper procedure, so also existence of vacancy and as per the roster will have to be considered by the authority in consonance with the roster approved by the B. C. Cell. The petitioners could not get the same approved at the earliest. In view of the above, it would

be appropriate for the District Social Welfare Officer to reconsider the proposals submitted in Writ Petition No. 8435 of 2015 on its own merits afresh and for the said purpose, the impugned order rejecting the proposals seeking approval to the appointments as submitted in Writ Petition No. 8435 of 2015 is quashed and set aside.

09. As far as proposals said to have been submitted on 01st July, 2013 of the petitioners in Writ Petition No. 10216 of 2015 is concerned, there is dispute of the same having not been received by the office of the District Social Welfare Officer. Copy is produced on record showing the stamp of the office of the District Social Welfare Officer. The date is mentioned as 01.07.2013, however, there is no inward number. According to the learned counsel for the District Social Welfare Office, there is no entry of the same in the inward register. Be that as it may, a copy is produced on record showing that the office of the District Social Welfare Officer, Zilla Parishad, Nanded of having received the same on 01.07.2013. In case said proposals of the petitioners in Writ Petition No. 10216 of 2015 are not been traced or found in the office of the District Social Welfare Officer, the petitioners in Writ Petition No. 10216 of 2015 shall submit the copy of the proposal afresh to the authority within ten days and the same be considered as proposals.

10. The District Social Welfare Officer shall decide the

proposals submitted by the petitioner in Writ Petition No. 8435 of 2015 and of the petitioners in Writ Petition No. 10216 of 2015 on its own merits, in accordance with law, expeditiously and preferably within a period of six months. The petitioners in both these writ petitions are entitled to file additional documents in support of their proposals and the District Social Welfare Officer shall decide the said proposals simultaneously, after hearing all the interested parties.

11. With these observations and directions, writ petitions stand disposed of. No costs.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 17