

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

WRIT PETITION NO. 11631 OF 2016

Anita D/o Ramdhan Kendre,
Age : - 22 years, Occu:- Anganwadi
Madatnis,
R/o Pimparwada, Tq. Dharur,
Dist. Beed. .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary of Woman
and Child Development Department,
Mantralaya, Mumbai - 32.
2. The Chief Executive Officer,
Zilla Parishad, Beed.
3. The Child Development Project Officer
Ekatmik Bal Vikas Yojana,
Project Office, Dharur Rural, Dharur,
Tq. Dharur, Dist. Beed. .. Respondents

Shri H. V. Tungar, Advocate for the Petitioner.
Shri M. B. Bharaswadkar, A.G.P. for the Respondent No. 1.
Shri S. S. Dambe, Advocate for Respondent Nos. 2 and 3.

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

DATE : 13TH SEPTEMBER, 2017.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of

parties taken up for final hearing.

2. Mr. Tungar, the learned counsel for the petitioner states that, pursuant to the advertisement and the selection process the petitioner was appointed as a Anganwadi Madatnis under appointment order dated 29.04.2016. The petitioner was directed to join the duty at Anganwadi Pimparwada, Tq. Dharur. The petitioner joined the post on 01.05.2016, however, the respondents did not issue joining report to the petitioner. The petitioner submitted application to the respondent No. 2 informing the respondent No. 2 that though she joined on the post of Anganwadi Madatnis on 01.05.2016, the persons named in the application have asked the petitioner to return the appointment order and that she would not get any salary.

3. The learned counsel submits that, the petitioner has discharged her duties regularly. However, the officers namely Mr. Galphade, Mr. Karad and Mrs. Jamadar have threatened the petitioner not to work on the post of Anganwadi Madatnis and as such joining report is not given.

4. The learned counsel submits that, the petitioner was appointed after following due selection process. The petitioner has also joined the post. No fault can be attributed to the petitioner. The respondents be directed to issue joining report

and release the salary to the petitioner.

5. Mr. Dambe, the learned counsel for respondent Nos. 2 and 3 submits that, as per the policy, unless and until there are two or more eligible candidates available for participation in the selection process, the appointment order could not have been issued and fresh advertisement has to be issued. The petitioner was the only eligible candidate, as such it was decided to issue fresh advertisement. Even fresh advertisement was issued on 03.06.2016. Pursuant to the said advertisement also nobody had applied. Even the petitioner did not apply, as such it will be necessary to go for fresh advertisement.

6. The affidavit in reply appears to have been filed on behalf of respondent Nos. 2 and 3 by one Mr. Galphade, working as incharge Child Development Project Officer, Wadwani. It is stated that, the appointment order was issued to the petitioner by the respondent No. 3 directing her to join the duties. The petitioner was required to join the duties on or before 01.05.2016 along with original documents. The petitioner failed to join the duties on or before 01.05.2016, as such does not have right to claim appointment. The petitioner submitted application for the first time on 25.05.2016 making false allegations. The allegations made by the petitioner are denied. Even fresh proclamation was issued, but two candidates applied were not

qualified.

7. We have also heard the learned Assistant Government Pleader.

8. It appears that, the petitioner was issued with the appointment order dated 29.04.2016. The dispute is about the joining of the petitioner at her place of appointment. There are rival contentions in this regard. The petitioner states that, the petitioner had signed the register on 01.05.2016. The record certainly has to be with the office. It appears that, the letters are issued by the petitioner from time to time asking the respondents to allow the petitioner to join the duties.

9. The fact remains that, the petitioner has been issued with the appointment order. There was no reason for the petitioner not to join. The petitioner has given many letters requesting that she be allowed to work on the said post, and thereafter petition is filed on 15.11.2016.

10. The communication issued by the Chief Executive Officer, Zilla Parishad, Beed to Mr. Dambe, the learned counsel is placed on record. The said communication is contrary to what is pleaded in the affidavit in reply filed on behalf of respondent Nos. 2 and 3. The said communication states that, as there was

only one application of a qualified candidate, as per policy appointment could not be made and the said post was required to be re-advertised and because of that re-advertisement was issued. The affidavit filed on record and the said communication of the Chief Executive Officer to the learned advocate do not go hand in hand.

11. The petitioner is already issued with appointment order. The respondents shall allow the petitioner to join the duties and shall pay regular salary to the petitioner. As far as past salary is concerned that is from 01.05.2016 till date the Chief Executive Officer, Zilla Parishad, Beed shall verify the record, such as register on which the petitioner states that she has put her signature and may make such other enquiry and arrive at a conclusion as to whether the petitioner has worked during the said period. If the petitioner has worked during the said period, then the salary shall be paid to the petitioner of the said period also. The writ petition accordingly is partly allowed.

Rule made absolute in above terms. No costs.

Sd/-

[MANGESH S. PATIL, J.]

Sd/-

[S. V. GANGAPURWALA, J.]