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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2091 OF 2015

Poonam Chandrashekhar Inamdar ...Petitioner
vs.
State of Maharashtra & Ors. ...Respondents

Mr.Siddhesh Pilankar i/b Mr.Uday Warunjikar for the
Petitioner
Ms Aparna Vhatkar, AGP for the respondent Nos.1 to
3.

CORAM : A.S.OKA, &
 A.K.MENON, JJ.
DATE : APRIL 19, 2017

ORAL JUDGMENT: (PER A.S.OKA,J.)

1 Earlier order passed in this petition makes it clear that this petition will be disposed of finally at the stage of admission.

2 The challenge in this petition under Article 226 of the Constitution of India is to the notification dated 18th November 2014 issued by the State Government. By the said notification, the State Government decided to terminate the appointment of the Chairperson of the Child Welfare Committee of the Ahmednagar District and the appointment of the petitioner and another Member of the Child Welfare Committee of Satara District. In the said notification, it was observed that an enquiry was held by the State Advisory Board into the conduct of the petitioner and that the State

Advisory Board found the petitioner guilty of misuse of powers.

2 There is also a challenge to the communication dated 7th January 2015 issued to the petitioner by which the Government Notification dated 18th November 2014 was communicated to her.

3 The challenge in this petition under Article 226 of the Constitution of India is mainly on the ground that the State Advisory Board has no jurisdiction to hold an enquiry into the allegations levelled against the members of a Child Welfare Committee. Reliance is placed on the Judgment and Order dated 14th October 2014 delivered by a Division Bench of this Court at Aurangabad in the case of Renuka Vishnu Ghule vs. State of Maharashtra and others¹. Another contention is that the order of removal of the petitioner from the post of a Member is in breach of the principles of natural justice. The petitioner has invited the attention of this Court to the minutes of the meeting of the State Advisory Board of 5th, 6th and 12th September 2014. The contention of the petitioner is that there was no proper enquiry held by any Authority including the State Advisory Board. It is stated that only on the basis of what transpired in the said meeting that a decision was taken to cancel the appointment of the petitioner.

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4 The learned AGP has placed on record a letter dated 18th April 2017 addressed to her by the Deputy Secretary of the Women and Child Development Department, Mantralaya, Mumbai. In the said letter, it is stated that a draft notification for cancellation of the impugned notification dated 18th April 2014 is being placed before the Law and Judiciary Department. If the same is approved, it will be placed before the Hon'ble Minister for his approval.

5 We have perused the Judgment of the Division Bench of this Court at Aurangabad in the case of Renuka Ghule (supra). The Division Bench after considering the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and Juvenile Justice (Care and Protection of Children) Rules, 2007 framed by the Central Government came to the conclusion that the State Advisory Board is not entrusted with the power to conduct an enquiry into the allegations levelled against the members of a Child Welfare Committee and only the Selection Committee constituted under section 91 of the said Act is empowered to hold enquiry and to recommend termination of appointment of the members of a Child Welfare Committee.

6 We have carefully examined the provisions of the said Act and Rules framed thereunder. We find that no power is conferred either by the said Act or the Rules framed thereunder on the State Advisory Board to conduct an enquiry into the allegations

levelled against the Members of a Child Welfare Committee. Sub-Rule 2 of Rule 92 of the said Rules provides that the Selection Committee constituted in accordance with Rule 91 has a power to hold an enquiry into any complaint against a member of a Child Welfare Committee and to recommend termination of the appointment of the said Member.

7 In the present case, admittedly, no such enquiry has been conducted by the Selection Committee.

8 Neither the impugned notification nor the impugned communication record that any opportunity of being heard was granted to the Petitioner before terminating her appointment.

9 Therefore, in our considered view, the appointment of the petitioner could not have been terminated without any enquiry being held by the Selection Committee. The State Government has committed an error by relying upon the recommendations of the State Advisory Board.

10 Accordingly, the petition must succeed. Hence, we pass the following order:

- (I) Rule is made absolute in terms of prayer clause (a);
- (II) We clarify that we have made no adjudication on the allegations made against the petitioner. We also clarify that this order

will not prevent the Selection Committee from holding an enquiry in accordance with Sub-Rule 2 of Rule 92 of the said Rules;

(III) All contentions of the petitioner in that behalf are kept open;

(IV) All concerned to act upon an authenticated copy of this Judgment and order.

(A.K.MENON,J.)

(A.S.OKA,J.)