

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8317 OF 2015

Madhvi Shravan Shinde & ors ... Petitioners

V/s.

The Commissioner & ors. ... Respondents

Mr. Kranti L.C. a/w. Ms. Meenaz Kakalia for the petitioners.

Mr. A.B. Vagyani, GP with Mr. O.M. Kulkarni, AAGP with Mr. R.S. Sawant,
AAGP with Mr. G.R. Golatkar, AAGP for respondent-State.
Mr. Rui Rodrigues a/w. N.R. Prajapati for Union of India.

**CORAM : NARESH H. PATIL AND
Z.A. HAQ, JJ.**

21st September, 2017.

P.C.

The petitioners claim that they are working as supervisors under the ICDS scheme implemented by Women and Child Development Department, Government of Maharashtra. They seek directions to respondents to make promotional channel available to them. The petitioners are working with Zilla Parishads, which is administered by the Rural Development Department of the State. They do not have a promotional channel which is available to officers at the rank of CDPO

and above who are part of Women and Child Development Department of the State. The post of supervisor is a Class-III post. The State was of the view that such class of persons / employees cannot be transferred to State cadre in the Women and Child Development Department. Certain Committees looked into the matter. A joint Committee thereafter considered the issue. Earlier an affidavit was filed on 16th January, 2017. Today the learned Government Pleader presented an affidavit sworn by Shashikant Shivaji Chavan, Child Development Project Officer, Chembur. The deponent has annexed a note approved by State dated 20th March, 2017.

2. In the facts, it would have been appropriate if responsible officer of the concerned ministry had filed an affidavit. The State chose to file an affidavit through a Child Development Project officer. The learned Government Pleader should apprise the State that henceforth looking to the issue involved, necessary directions be issued in respect of filing of an affidavit by responsible officers at the State level.

3. The petitioners claim that their services as supervisor (class-III) be transferred to the State cadre under the Women and Child Development Department.

4. The learned Government Pleader submits that now a decision has been taken. Out of 225 posts of CDPO, 80% would be filled by promotion on the basis of departmental examination. We find that averments made to this effect are made in paragraph-6 of the affidavit.

5. We prima-facie find that the stand adopted by the State requires to be considered on the issue as to whether the petitioner's request for transferring their services to State cadre at this stage is possible. It was submitted on behalf of the State that certain amendments are required to be made to the Rules and Schedule-I framed under the provisions of Section 100(2) of the Maharashtra Zilla Parishad and Panchayat Samitee Act. In case the State takes such a decision then it would require to get such an amendment passed by the State legislature.

6. In the facts of the case and considering the provisions of the Act and Rules framed as stated above, at this stage, we are not inclined to issue direction to the State in respect of transferring the post of supervisors working under the ICDS scheme to the State cadre under the Women and Child Development Department. However, the State and the Central Government would look into this issue and deal with the same in

accordance with the scheme floated by the Center and State laws.

7. We find that in view of the statement made in Paragraph-6 of the additional affidavit filed today that the supervisors working under the scheme would get some benefit.

8. Mr. Rodrigues appearing for Union of India would intimate the Central Government of the issue and order passed by us today.

9. With aforesaid observations, Writ Petition stands disposed of.

(Z.A. HAQ, J)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.