

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

WRIT PETITION NO. 10757 OF 2013

Smt. Ramala Dayaram Ahire

... Petitioner

Vs

1. The Chief Executive Officer, Zilla
Parishad, Pune, & Ors.

... Respondents

Mr. Bhushan A. Bandiwadekar i/b Mr. Sagar A. Mane for the
Petitioner.

Mr. Sanjeev J. Rairekar for the Respondent Nos.1 and 2.

Mrs. M.S. Bane - 'B' Panel Counsel for the Respondent No.3.

***CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.***

THURSDAY, 09TH MARCH, 2017

P.C. :

1 Having heard both sides, we find that no relief in our
equitable and discretionary jurisdiction can be granted.

2 We find that the argument that the petitioner resigned
under some duress or force, even if accepted, would mean that
her response ought to be immediately reporting for work and

insisting on duties or work being assigned to her. Nothing of this sought transpires, in the sense the petitioner resigns in writing on 29th April 2011, effective from 1st May, 2011. The petitioner does not report for work from 1st May, 2011, to 4th August, 2012. In the meanwhile, she says she was down with Hepatitis and was undergoing medical treatment but that is from 1st January, 2012 to 3rd August, 2012. These are her own records. Therefore, even if her resignation is not accepted and she is deemed to be in service, there are no reasons why she did not report for work from 1st May, 2011 till 1st January, 2012. Even after 4th August, 2012, she has continued her correspondence, but we do not find any challenge being laid by her to the resignation or the forced resignation or the alleged illegal acts of her employer till the writ petition in this Court. The affidavit-in-reply would disclose how the petitioner, either has resigned from the job on her own or she has abandoned the services willingly. This much for a petitioner who was employed as Auxillary Nurse Midwife at a Primary Health Centre at village level. Given the pressure of work in Pune District and within the area of operation of the Zilla Parishad and the embarrassment that is caused by the absence of a lady health worker at a Public Health Centre, the employer - Zilla Parishad, is

left with no choice but to proceed against the petitioner. Such a party does not deserve, as already observed, any relief in our jurisdiction under Article 226 of the Constitution of India. The Writ Petition is dismissed.

3 However, in the event in future, when the post is advertised by the Pune Zilla Parishad, the earlier litigation shall not prevent the petitioner from applying for the post. In the event application is made for seeking appointment against vacant post and in the Pune Zilla Parishad, particularly in health services, the said Zilla Parishad will deal with that application on its merits and in accordance with law.

B.P. COLABAWALLA, J. S.C. DHARMADHIKARI, J.