

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

WRIT PETITION NO.12309 OF 2015

Maharashtra State Zilla Parishad
Anganwadi Supervisors Union ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

Mr.N.B.Khandare and Mr.M.P.Tripathi, Advocates for
petitioner

Mrs.M.A.Deshpande, Addl.G.P. for respondent nos.1 to 11

ALONG WITH
CIVIL APPLICATION NO.1629 OF 2016
IN
WRIT PETITION NO.12309 OF 2015

AND
CIVIL APPLICATION NO.2174 OF 2016
IN
WRIT PETITION NO.12309 OF 2015

AND
CIVIL APPLICATION NO.5105 OF 2016
IN
WRIT PETITION NO.12309 OF 2015

CIVIL APPLICATION NO.11995 OF 2016
IN
WRIT PETITION NO.12309 OF 2015

AND
CIVIL APPLICATION NO.3704 OF 2018
IN
WRIT PETITION NO.12309 OF 2015

Mr.V.D.Salunke and Mr.J.M.Murkute, Advocate for respective applicants

Mr.N.B.Khandare and Mr.M.P.Tripathi, Advocates for petitioner in Writ Petition

Mrs.M.A.Deshpande, Addl.G.P. for respondents – State

AND

WRIT PETITION NO.1275 OF 2016

Integrated Child Development
Services Scheme

..Petitioner

Vs.

The State of Maharashtra
and ors.

..Respondents

Mr.N.B.Khandare and Mr.M.P.Tripathi, Advocates for petitioner

Mrs.M.A.Deshpande, Addl.G.P. for respondent nos.1 to 11

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : OCTOBER 23, 2018

PER COURT

We have heard Mr.Khandare, learned Counsel for the petitioners and Mrs.Deshpande, learned Addl. Government Pleader for the respondents – State.

2. Mr.Khandare, learned Counsel for the petitioners, submits that the petitioners are the Unions of Anganwadi Supervisors, working under the Integrated Woman and Child Development Scheme. The respondents are not making their stand clear. The petitioners do not come under the Rural Development Department. He submits that the petitioners are not promoted to the post of Child Development Project Officer. To substantiate his contentions, learned Counsel relied on the various Government Resolutions.

3. According to Mrs.Deshpande, learned Addl. G.P., the petitioners are working under the Rural Development Department. The Woman and Child Development Department has framed Rules under the proviso to Article 309 of the Constitution of India. As per the said Rules, the post of Anganwadi Supervisor is not the feeder cadre for the post of Child Development Project Officer. Learned AGP, on instructions, further states that the Rules are being

prepared for filling-up the post of Child Development Project Officer by promotion.

4. It is not necessary for us to decide as to whether the members of the petitioner's union are working under Women and Child Development Department or under the Rural Development Department. Even if we accept the contentions of the petitioners that they are working under the Woman and Child Development Department, the Rules are framed under the proviso to Article 309 of the Constitution of India by the Woman and Child Development Department. Rule 5 thereof provides for appointment to the post of Child Development Project Officer, either by promotion or nomination. Rule 5, reads thus :-

5. Appointment to the posts of Child Development Project Officer, Assistant Director, Assistant Commissioner, Probation Superintendent and District Women and Child Development Officer, Group-A in the Commissionerate shall be made either ,-

(a) by promotion of suitable person, on the basis of seniority, subject to fitness, from amongst the persons holding the posts in the cadre of Inspector Certified School and Institutions or Probation Inspector or Organisation and Methods Officer or Lecturer or District Women and Child Development Officer or Superintendent or Statistical Officer or Camp Commander, Group-B, in the Commissionerate, having not less than three years regular service in that cadre; or

(b) by nomination from amongst the candidates who,-

....

Reading the said Rule, it is manifest that Anganwadi Supervisor is not the feeder cadre for the post of Child Development Project Officer. In the light of that, it would not be possible to issue direction to appoint the petitioners as Child Development Project Officers. The Rules are not subject matter of

challenge in these petitions. As such, we are not entering the issue as regards legality of the Rules.

5. Learned Counsel for the petitioners has brought to our notice the order passed in similar matters i.e. in Writ Petition no.8317 of 2015 dated 21.09.2017, by this Court at the Principal Seat at Bombay and the order passed at Nagpur Bench in Writ Petition No.951 of 2016 dated 09.01.2018.

6. The respondents/State have taken steps to frame the Rules, as is indicated by the learned Addl. Government Pleader. As the Rules are being framed in this regard, naturally, the parties would be governed by those Rules. If the petitioners feel that the Rules that may be framed, are detrimental to them, they would have opportunity to agitate the same. It is expected that the respondents would frame the Rules expeditiously.

7. With these observations, the Writ Petitions are disposed of.

8. In view of disposal of the petitions, Civil Applications stand disposed of.

[**R.G. AVACHAT, J.**]

kbp

[**S.V. GANGAPURWALA, J.**]