

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

WRIT PETITION NO.4183 OF 2016

1. Jijabai w/o. Anil Kardule-Sawant,
Age: 44 years, Occu. Service,
R/o: Chatrapati Colony, Beside
Dr.C.A.Gaikwad, Beed.
2. Chaku w/o. Vishnu Shinde,
Age: 45 Years, Occu: Service,
R/o. Jijau Nagar, Devgiri Shikshak
Colony, Old Dhanora Road, Beed.
3. Vidya w/o. Sakharam Maunasingotri
(Parvatabai),
Age: 45 Years, Occu : Service,
R/o. Gajana Nagar, Beed.
4. Sangita w/o. Pandurang Pawar-Jagtap,
Age: 37 Years, Occu: Service,
R/o.Barshi Naka, Ashok Nagar,
Beed.
5. Bahir w/o. Suchita Rameshwar [Kurdale],
Age: 40 years, Occu:Service,
R/o.Shahu Nagar, Beed.
6. Nisha w/o. Shivajirao Kulkarni,
Age: 46 Years, Occu: Service,
R/o.Eknath Nagar, Beed.
7. Sudamati w/o.Gangaram Mohite,
Age: 33 years, Occu:Service,
R/o.Karanja Nagar, Dhanora Road,
Near Maruti Mandir, Beed.
8. Shaikh Aasefa Husain,
Age: 36 Years, Occu:Service,
R/o.Neharu Nagar, Beed.

9. Vijaya w/o.Govind Kulkarni,
Age: 40 Years, Occu:Service,
R/o.Anand Nagar, Dhanora
Road, Near Maruti Mandir,
Beed.

PETITIONERS**VERSUS**

1. The State of Maharashtra,
Through its Secretary,
Women and Child Development
Department, Mantralaya,
Mumbai.
2. The Commissioner,
Women and Child Development,
Pune.
3. The District Woman and Child
Development Officer-I, Beed.
4. The Chief Executive Officer,
Zilla Parishad, Beed.
5. The Deputy C.E.O.
Zilla Parishad, Beed.
6. Women and Child Development
Officer-2, City Project, Beed.
7. Woman and Child Development
Office-2, Rural, Beed.
8. The Block Education Officer
Panchayat Samiti, Beed.
9. The Collector,
Beed, Taluka and Dist.Beed

RESPONDENTS

...
Mr.Sambhaji G. Munde, Advocate for the
Petitioners
Mr.C.S.Kulkarni, AGP for the Respondent/State
Mr.P.D.Suryawanshi, Advocate for respondent
nos.4 to 8.

...

**CORAM: S.S.SHINDE &
S.M.GAVHANE,JJ.**

Reserved on : 31.01.2018
Pronounced on : 08.02.2018

JUDGMENT: (Per S.S.Shinde, J.):

1] Heard. Rule. Rule made returnable
forthwith, and heard finally with the consent
of the parties.

2] This Petition is filed praying
therein to direct the respondents to appoint
petitioners to the post of Anganwadi Sevika
or Anganwadi Madatnis under the Integrated
Child Development Scheme, in view of the
Government Resolution dated 05.08.2010 and
09.02.2005 as well as Writ Petition
No.3710/2011 and Writ Petition No.3762/2005.
It is further prayed to quash and set aside

the order dated 11.12.2015 issued by the Zilla Parishad, Beed.

3] Learned counsel appearing for the petitioners invites our attention to the Government Resolution dated 5th August, 2010, issued by the Women and Child Development Department, and submits that, the respondents are bound to follow the said Government Resolution, and to appoint the petitioners on the post of Anganwadi Sevika. The legitimate claim of the petitioners has not been considered by the respondents, however, similarly situated Balmatas have been given benefit, and they are appointed on the post of Anganwadi Sevika and/or Madatnis as provided under the aforesaid Government Resolution. The petitioners are fully qualified for the appointment on the post of Anganwadi Sevika / Madatnis. The petitioners are working in Balwadi and getting remuneration of Rs.500/-. One of the

petitioners, namely, Nisha w/o. Shivajirao Kulkarni forwarded a complaint to the State Authorities and the Additional Commissioner [Anganwadi], Women and Child Development Commissioner, Pune has specifically directed to the Additional Chief Executive Officer, Beed on 11th January, 2012, to look into the grievances raised in the said complaint. However, the said instructions were ignored by the authorities. It is submitted that while disposing of the Writ Petition No.3808/2014 [Jijabai Anil Karkule-Sawant and others Vs. The State of Maharashtra and others], by order dated 18th September, 2014, directed the respondents to consider the case of the petitioners in case Anganwadis are established at the places where the petitioners are working.

4] The petitioners filed representation to respondent no.4, and the same was pending with the Zilla Parishad, Beed. The High Court

directed Zilla Parishad to decide the said representation. However, claim of the petitioners has been rejected by the Zilla Parishad, observed that, the Zilla Parishad has no jurisdiction to make appointment to the post of Anganwadi Sevika. It is the contention of the learned counsel appearing for the petitioners that, the impugned order passed by respondent no.4 is without following the Resolution passed by the Government time to time. Therefore, learned counsel appearing for the petitioners submits that, the Petition deserves to be allowed.

5] On the other hand, learned counsel appearing for respondent nos.4, 5, 7 and 8 relying upon the affidavit-in-reply submits that, the Anganwadi functioning in urban area are under the control of Government and Child Development Project Officer in the Department working under the department of Women and Child Development is the appointing

authority. The petitioners were not eligible for the posts advertised by the State Authorities, on the ground of age limit. Learned counsel further invites our attention to the averments in the affidavit-in-reply and also annexures thereto, and submits that, the Petition may be rejected.

6] Learned AGP appearing for the respondent-State submits that, the petitioners' claim for appointment as Anganwadi Sevika is governed by the policy of State Government under Integrated Child Development Scheme. The scheme is to be implemented through the Child Development Project Officer [Urban] as well as the Deputy CEO, Child Development, Zilla Parishad, Beed for rural area. The appointments are made under the scheme. It is not within the jurisdiction of respondent no.3 to redress grievance of the petitioners.

7] Learned AGP relying upon the affidavit in reply filed on behalf of respondent nos.1 and 2 submits that, the Government Resolution dated 5th August, 2010 was issued for imposing terms and conditions in respect of appointment of Anganwadi Sevika, Mini Anganwadi Sevika and Madatnis for Anganwadi, which came under the Integrated Child Development Scheme [for short 'ICD scheme']. It is submitted that, Anganwadis from both urban as well as rural areas are included under the ICD Scheme. Anganwadi, which is run for population below 400, is called as 'Mini Anganwadi'. Anganwadi, which is run for population over and above 400, is called as 'Anganwadi'. It is submitted that, at Mini Anganwadi there is post of Anganwadi Sevika only; whereas at Anganwadi there is post of Anganwadi Sevika as well as Anganwadi Madatnis. Anganwadis,

which are functioning at rural level, are under the control of Zilla Parishad, Beed and Chief Executive Officer is an appointing authority; whereas the Anganwadis functioning in urban areas are under the control of Government and Child Development Project Officer in the Department working under the Department of Women and Child Development is the appointing authority.

8] It is further submitted that, as can be seen from the opening para of the Government Resolution dated 05.08.2010, (A) there is presumption that if any Balwadi is already functioning, which is under the control of either Grampanchayat, Panchayat Samiti, Zilla Parishad, Mahanagar Palika, Nagar Palik and Cantonment Board [Katak Mandale], Social Welfare Department, Education Department and Central as well as State Social Welfare Advisory Board, then there is presumption that the said Balwadi

shall stand closed and the Balwadi Teachers will be absorbed as Anganwadi Sevika at new Anganwadi Centers on honorarium and if she fulfills the eligibility criteria prescribed. If she is not matriculate then said Balwadi Teachers will be appointed as Anganwadi Madatnis. It was made clear that if any Balwadi is run by NGOs and is getting grant from any of the Department, still said teachers from Balwadi shall not be considered for appointment either as Anganwadi Sevika or Madatnis. As well as from the above discussion, it is crystal clear that the Government Resolution is squarely applicable to those ladies, who were working as Balmatas. At this juncture, it is submitted that, the activities, which are undertaken at Balwadi, were the same, though there was difference in the nomenclature such as Balmata, Balwadi Teacher or Balwadi Tai. It is submitted that, the Balwadi where the

petitioners appear to be working as alleged in the Petition as Balmatas are not converted into Anganwadi as per the norms laid down by the State Authorities. As and when the Balwadi where the petitioners are working if converted into Anganwadi and if the petitioners fulfill the eligibility criteria, then certainly the claim of the petitioners will be considered by the authorities.

9] We have considered the submissions of the learned counsel appearing for the petitioners, learned counsel appearing for the respondent-State, and learned counsel appearing for respondent nos.4 to 8. With their able assistance, we have perused the pleadings in the Petition, annexures thereto, and replies filed by the respondents. It appears from the reply filed by respondent nos.1 and 2 that, the appointments of Anganwadi Sevika are made by the Chief

Executive Officer, Zilla Parishad, Beed. We have carefully perused the reasons assigned in the impugned order dated 11.12.2015 [Exhibit-M Page-70] passed by the Chief Executive Officer, Zilla Parishad, Beed, in our opinion, stand taken in the impugned order that, the Zilla Parishad is not Competent to make an appointment of Anganwadi Sevika / Madatnis is contrary to the averments made in the affidavit-in-reply filed by respondent nos.1 and 2. It is clearly mentioned in the affidavit-in-reply filed by respondent nos.1 and 2 that, the Anganwadis, which are functioning at rural areas, are under the control of Zilla Parishad, Beed and the Chief Executive Officer is the appointing authority. In that view of the matter, we quash and set aside the impugned order dated 11.12.2015 [Exhibit-M Page-70], and we direct respondent nos.3 to 9 to look into the grievances of the

petitioners and take appropriate decision, as expeditiously as possible, however, within 8 weeks from today. We make it clear that, respondent nos.3 to 9 are directed to decide the grievances of the petitioners on merits, and also keeping in view the relevant Government Resolutions and/or any other guidelines issued by the Government or Zilla Parishad, and shall not reject the said claim on the ground that, there is no jurisdiction to decide such claims. We further make it clear that, we have not considered the contentions of the petitioners on merits, and it is for the concerned authority to consider the case of the petitioners on merits. We hope and expect that, the concerned Authority will give an opportunity of hearing to the petitioners by issuing notices to them to remain present for such hearing.

10] With the above observations, Writ Petition is partly allowed. Rule is made

absolute on above terms. The Writ Petition stands disposed of accordingly.

11] Unless the petitioners claim are considered on merits and decided, respondent nos.3 to 9 shall not issue any appointment letter on the post of Anganwadi Sevika. In case the claim of the petitioners are decided on merits, in that case, the respondents are free to go ahead with the appointments, if posts are vacant.

12] Parties to act upon authenticated copy of this order.

13] In view of disposal of Writ Petition No.4183/2016, Civil Application No.9031/2016 does not survive, and the same stands disposed of accordingly.

[S.M.GAVHANE]
JUDGE

[S.S.SHINDE]
JUDGE