

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5850 OF 2018

CHANDARANI DADARAO GUJAR
VERSUS
THE ADDITIONAL COMMISSIONER, AURANGABAD

Advocate for Petitioner : Mr. M.D. Narwadkar.
AGP for Respondent : Mr. S.R. Yadav.
Advocate for Respondent Nos. 2 & 3 : Mr. V.M. Chate.

CORAM : RAVINDRA V. GHUGE, J.
DATED : 28th August, 2018

PER COURT :

1. While issuing notices, this Court (Coram : S.P. Deshmukh, J.) passed the following order on 15/06/2018 :

"1. Issue notice to respondents, returnable on 2nd July, 2018.

2. Learned AGP waives service for respondent No. 1 and Mr. Chate, learned advocate waives for respondents No. 2 and 3.

3. Learned advocate for the petitioner urges for interim relief stating that while status quo order had been in operation and was to operate till 1st July, 2018, as would appear from page No. 41, yet same had purportedly been vacated by the Additional Commissioner as would appear from page No. 42 and in all likelihood it may be taken benefit of.

4. Learned advocate for respondents No. 2 and 3, however, states that relieving order has been passed and the petitioner has already been relieved.

5. *There appears to be much of employment of strategem and attempt to outsmart the pending proceedings.*

6. *Having regard to statements as are appearing on pages No. 41 and 42 of the Writ petition. It appears to be expedient the status quo ante, as had been subsisting while order on page No. 42 had been passed, be maintained."*

2. I have heard the learned advocate for the petitioner, respondent Nos. 2 and 3 and the learned AGP on behalf of respondent No. 1.

3. On 12/04/2018, the petitioner received a relieving order and was relieved from her position. It is stated that she has been deployed in another department on the same position of Junior Clerk and she has taken charge in the General Administration department at the same place.

4. There is no dispute that after the petitioner was selected and appointed vide order dated 20/07/2010, as a Junior Clerk, she was obliged to complete the course of MS-CIT within a period of two years from the date of her appointment, vide Government Resolution dated 24/09/2001. It is not in dispute that the petitioner had not completed the said course and is not eligible for service benefits.

5. The petitioner had assailed the order dated 08/04/2018, before the Additional Divisional Commissioner. By order dated 17/04/2018, the said authority directed the parties to maintain status quo after recording the grievance of the petitioner that she has been reverted by order dated 12/04/2018. The next date of hearing was posted on 11/07/2018.

6. The Zilla Parishad appears to have approached the first respondent and pointed out that there was no reversion of petitioner. Hence, respondent No. 1 preponed the hearing in the matter to 13/06/2018 and passed an order vacating the status quo. After the status quo order was vacated, on the very next day 14/06/2018, the petitioner has suffered an order of reverting her from Junior Clerk (Group 'C') to the position of Parichar (Group 'D'). This was after the respondents were served with the copy of this petition, is the contention of the petitioner. On 15/06/2018, this Court passed the order reproduced above and 'status quo ante' was directed to be maintained.

7. The learned counsel appearing on behalf of respondent Nos. 2 and 3 submits that the petitioner has been appointed on compassionate basis, she has to complete the MS-CIT course within two years failing which her service would be brought to an end in view of the G.R. dated 24/09/2001 (3 pages), which is tendered across the bar and is taken on record and marked as 'X' for identification.

8. The learned counsel for respondent Nos. 2 and 3 relies on the affidavit in reply filed by Dr. Santosh Shivaji Palve, District Animal Husbandry Officer, Zilla Parishad, Beed, dated 29/06/2018, and submits on instructions that the order dated 14/06/2018, has not been given effect to and the petitioner is not reverted. Learned counsel for the petitioner hastens to add that the pending proceedings before respondent No. 1 have now been disposed of by order dated 31/07/2018, concluding that there is no order of reversion under challenge and hence, there is no cause of action.

9. Learned counsel for respondent Nos. 2 and 3 submits that as the order dated 14/06/2018, has not been given effect to and since respondent Nos. 2 and 3 intend to follow the due process of law, if any action is to be initiated against the petitioner pursuant to the G.R. dated 24/09/2001, this petition is rendered infructuous. Learned counsel for the petitioner submits that if an opportunity of hearing will be given to the petitioner, if any action is to be initiated by respondent Nos. 2 and 3, this petition can be disposed of.

10. Considering the above and as respondent Nos. 2 and 3 declare that the order dated 14/06/2018, will not been given effect to and they intend to follow the due process of law and keeping in view the order of this Court dated 15/06/2018, this petition is disposed of.

11. In the event respondent Nos. 2 and 3 intend to initiate any action against the petitioner within the frame work of law, they shall follow the due procedure laid down in law and she shall be given an opportunity of hearing.

(RAVINDRA V. GHUGE, J.)

S.P.C.