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

WRIT PETITION NO.12027 OF 2017

Sanjay s/o Dattaram Shelge,
Age: 45 years, Occu: Service as
Secondary Teacher,
Zilla Parishad Girls High School,
Naigaon, Tal. Naigaon,
District Nanded

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai
2. The Director of Education,
(Secondary and Higher Secondary),
Maharashtra State, Pune
3. The Deputy Director of Education,
Latur Division, Latur
4. The Education Officer (Primary),
Zilla Parishad, Nanded
5. Subhash s/o Gangadhrappa Deglurkar,
Age : Major, Occu: Service as
Assistant Teacher, Jairam Ambekar
Vidyalaya, Arjapur, Tal. Biloli,
District Nanded

..RESPONDENTS

Mr S. S. Thombre, Advocate for petitioner;
Mr A. R. Kale, A.G.P. for respondent Nos.1 to 3;
Ms Y. M. Kshirsagar, Advocate for respondent No.4;
Mr H. D. Deshmukh, Advocate for respondent No.5

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 16th October, 2018

ORAL ORDER:

Heard Mr Thombre, learned Counsel appearing on behalf of the petitioner.

2. The grievance of the petitioner is, though the petitioner was complying with all the requisite criteria for staking his claim to the award of the State Government as the 'best teacher' and though he secured more marks than respondent No.5, the State Government, by Resolution dated 12th September, 2017, selected respondent No.5 as an awardee for Nanded district in the category of 'best teachers' teaching secondary classes.

3. Our attention is invited to the Government Resolution dated 21st July, 2016. Perusal of the said Resolution shows that the State Government floated a laudable scheme, namely, declaration of the award to the best teachers in various categories. The procedural modalities are referred to in the said Resolution. It is stated that on scrutiny of the applications, the selected candidates would be called upon for oral interview. It is also stated that the selection would not only be on the basis of the decision of the District Committee but certain other factors are also relevant for consideration, such as, participation of the teachers in social activities and special attempts undertaken by them for national awareness. Then it is stated that after considering all these facets, the teachers would be selected

(3)

in various categories right from the teachers teaching primary section, secondary section and the teachers teaching in tribal area, etc. The constitution of Committee is also provided under the Resolution dated 21st March, 2017.

4. The petitioner was called upon for oral interview by communication dated 12th May, 2017. The petitioner has placed on record the marks secured by teachers staking their claim for Nanded district. The petitioner secured 155 marks, whereas respondent No.5 secured 124 marks. Mr Thombre, learned Counsel for the petitioner submitted that the petitioner was hopeful of receiving the award in view of the maximum marks secured by him, but declaration of the awards, vide Resolution 12th September, 2017 shocked and surprised him as instead of him, respondent No.5 was selected for the award. In challenge to this selection, the petitioner approached this Court.

5. The reply is filed on behalf of respondent Nos.1 to 3. The ground is raised in the affidavit-in-reply that complaint was made against the petitioner to the Education Officer, Pune on 12th May, 2017 through one Abdul Rais Ahmed. It was informed to the Director of Education that the petitioner was suspended by the Chief Executive Officer by an order dated 29th November, 2012. The annexures to affidavit-in-reply in the form of report of the Education Officer, dated 7th August, 2017 show that certain material was received by the Education Officer wherein it was informed that

(4)

a preliminary enquiry was conducted against the petitioner and order was passed by the Chief Executive Officer on 29th November, 2015. Along with affidavit-in-reply, a document is placed on record to submit that on receiving the enquiry report, the District Selection Committee withdrew the recommendation of the petitioner and recommended name of respondent No.5 for the award.

6. The petitioner has filed re-joinder affidavit to submit that the Education Officer (Primary), Zilla Parishad, Nanded, on 12th May, 2017, issued certificate in favour of the petitioner and it is stated that the petitioner is having clean record of service and no inquiries or legal proceeding of any kind, departmental or otherwise are pending against him.

7. Now, what reveals is, there are two documents placed on record; one is a communication issued by the very authority i.e. the Education Officer, dated 12th May, 2017 submitting that service record of the petitioner is clean and unblemish and the very authority i.e. the Education Officer submitted a detailed report on 7th August, 2017, wherein certain factual aspects are referred to submit that the petitioner has faced a preliminary inquiry. The petitioner along with his rejoinder, placed on record a copy of the order passed by the Deputy Chief Executive Officer, Zilla Parishad, Nanded. Perusal of this document shows that the order placing the petitioner under suspension was issued on 29th November, 2012 and he was re-instated by

(5)

treating his suspension period from 29th November, 2012 to 31st December, 2012 as due and admissible leave. The petitioner had submitted his explanation to the authority. A strict warning was given to the petitioner and he was also censured by the Deputy Chief Executive Officer, by exercising his powers under the Maharashtra Zilla Parishads District Services (Discipline and Appeal) Rules, 1964. There is again a dispute on the said issue. The petitioner submits that the order of the Deputy Chief Executive Officer is not a punishment as it is merely warning in the nature of censure, whereas learned Asstt. Govt. Pleader submits that as per the provisions of the Rules, it amounts to a punishment. This issue requires consideration as the authority, though states in the order that the explanation submitted by the petitioner is satisfactory but the authority passed the order exercising its powers of censure. Be that as it may.

8. Leaned Counsel for the petitioner and learned Asstt. Govt. Pleader and learned Counsel appearing on behalf of other respondents, apart from State authorities admit that the awards are being declared on the annual basis i.e. for every year. It is admitted by learned Counsel that there is no prohibition to the petitioner to stake his claim for the award for the ensuing year i.e. for 2019-2020.

9. Mr Thombre, learned Counsel for the petitioner, on instructions, submits that the petitioner would submit a fresh on-line application staking his claim for the award for the year 2019-2020. Learned Asstt. Govt.

(6)

Pleader submits that, if such application is submitted by the petitioner, the same would be considered on its own merits.

10. In view of above submissions, we are of the opinion that the petition can be disposed of without entering into disputed questions of facts and also without entering into arena as to whether there exists any right for the petitioner to claim the award. If the petitioner submits application for the said award for the year 2019-2020, the same be considered on its own merits, without insisting on a ground that the petitioner had earlier approached this Court by filing writ petition and the said writ petition is disposed of by this Court. The respondents authorities to consider the application of the petitioner on the backdrop of the Government Resolutions, the requisite criteria and the procedural modalities formed by the State Government from time to time.

The petition is accordingly disposed of with above referred directions.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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