

Subhangi Santosh Patil and others	...	Petitioners
Vs.		
Union of India and others	...	Respondents

Mr. D. V. Sutar i/b. Ms Dipti J. Nikhade for Petitioners.
Ms Jyotsna Pandhi for Respondent No.1.
Mr. C. P. Yadav, AGP for Respondents No.2 to 4.

**CORAM : R. M. BORDE &
R. G. KETKAR, JJ.**
DATE : FEBRUARY 05, 2018

P.C. :

The petitioner is objecting to the order dated 15.04.2015 issued by the respondent No.3 whereby the Commissioner, Family Welfare & Director has issued instructions to the Deputy Chief Election Officer to obtain resignation from the ASHA workers engaged on contract basis in the event of their election to the elective office under the local authority. The petitioner contends that the holding of office of ASHA workers on contractual basis is not a disqualification recorded under Section 14(f) of the Maharashtra Village Panchayats Act, 1958 and as such, no such direction can be issued. While issuing the circular, the Commissioner has referred to the directives issued by the State on 05.08.2010. It is contended that those directives relate to Anganwadi workers who are engaged on the post admissible for honorarium and are paid out of the funds received under the scheme formulated by the Central Government. The directives issued by the State Government on 05.08.2010 are in pursuance to the guidelines issued by the Central Government and those cannot be made applicable in case of ASHA workers. The policy that has been adopted by the State Government, while issuing directives on

05.08.2010, can be made applicable in an uniform manner in identical circumstances. The petitioner, in her capacity as an ASHA worker, is expected to render services in the village and the functions performed by the petitioner as an ASHA worker are connected with the schemes and the functions which are required to be implemented by the Village Panchayat. An elected member of the local authority, while holding the elective office, is not expected to hold any office in respect of which honorarium is payable and the duties to be performed are akin to the responsibilities to be carried out by such local authorities. Even on application of principle of parity, the directives issued by the Commissioner cannot be said to be unreasonable or arbitrary.

2. The petitioner is a holder of a post in a scheme formulated by the State and is entitled to receive an honorarium. The engagement of the petitioner as an ASHA worker is on contractual basis. She does not have any right to the post. The engagement of the petitioner cannot be equated with an employee holding a civil post and as such, the Petition in the present form invoking the writ jurisdiction under Article 226 of the Constitution of India is also not entertainable. In identical circumstances, the Division Bench of this Court, Bench at Nagpur, dealing with Writ Petition No.5559 of 2015 decided on 06.10.2015 has turned down the challenge to the order which was dependent on the directives issued by the Commissioner on 15.04.2015. For the reasons recorded above, Writ Petition does not deserve to be entertained and as such, stands rejected summarily.

(R. G. KETKAR, J.)

(R. M. BORDE, J.)