

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 1080 OF 2018
IN
WRIT PETITION (ST.) NO. 24588 OF 2017***

Sanjay Laxman Gaikwad & Anr. ... Applicants.

In the matter between

Sanjay Laxman Gaikwad & Ors. ... Petitioners.

V/s.

The Government of Maharashtra & Ors. ... Respondents.

***With
CIVIL APPLICATION NO. 1079 OF 2018
IN
WRIT PETITION (ST.) NO. 24373 OF 2017***

Swabhiman Shikshak Sanghatana & Ors. ... Petitioners.

V/s.

The State of Maharashtra & Ors. ... Respondents.

Mr. S.S. Pakle i/b. S.M. Katkar for the Applicants/Petitioners.

Mr. S.B. Kalel, AGP for Respondents 1 to 4.

Mr. S.P. Thorat for Respondents 5 & 6.

***CORAM : S.C. Dharmadhikari and
Smt. Bharati H. Dangre, JJ.***

19 June, 2018.

P.C. :-

In these matters at Exhibit 'H' to the Petitions, is the order dated 26 April 2018 under challenge. That order, according to the Petitioners, communicates that the Petitioners have to forward the options so that in the annual transfer policy pertaining to the Zilla Parishad Primary School Teachers, the Petitioners would be posted.

2. It is very clear according to the Petitioners that having been employed by the then Thane Zilla Parishad but post division of Thane District into Thane and Palghar the new District of Palghar resulted in establishment of Palghar Zilla Parishad. Therefore, the Petitioners expected that the teachers in these Zilla Parishads to be accommodated consistent with their choices and options in terms of proper posting orders so that they either report to a primary school within the Zilla Parishad of Palghar or Thane.

3. The Original Petitioners have filed these Civil Applications claiming that after the Writ Petition was disposed of by a judgment and order passed by this Court, they gave their individual options on 17 October 2017 and followed it with a legal notice. Thereafter, the Petitioners complained that they were forced to sign a printed option form. Those printed option forms and which were earlier given ought to have been not acted upon and the

Petitioners options and choices given pursuant to the orders of this Court were expected to be taken into consideration, yet, the order of 26 April 2018 has been issued and even that order cannot be implemented. Hence, the Petitioners/Applicants are stating that they be allowed to work in the Zilla Parishad Primary School at Chikhloli, Taluka Ambernath, District – Thane.

4. A similar substantive petition being Writ Petition No. 6317 of 2018 was filed by several teachers in these areas and on 14 June 2018 they complained that despite the options given, the two Districts having been formed, two Zilla Parishads having been established, the orders in terms of options were not issued.

5. On such a Writ Petition this Bench passed the following order :-

“1. In this petition, the Petitioners are alleging that their options given, during the course of the implementation of the general policy of transfer of Zilla Parishad Primary School teachers, are not carried to their logical end in Thane and Palghar Districts alone. These options have not been allegedly considered. Meaning thereby, after District Thane was divided into two Districts insofar as formation of Palghar Zilla Parishad is concerned, those opting for this Zilla Parishad and District have not been posted and the policy of the Government in that behalf, and particularly in relation to the primary teacher of the Zilla Parishad has not been implemented solely in these two districts.

2. Once the attention of the learned Advocate General who is present in Court, was invited to this aspect, he stated, on instructions, that there was a Code of Conduct and promulgated by the Election Commission of India on account of by-election to the Loksabha, namely, from the Palghar Parliamentary Constituency. Till that election process was over and the Code of Conduct was in force, no transfer policy and in relation to even the Zilla Parishad primary teachers was implemented. Now that the academic year has already commenced, the Government Resolution on the transfer of primary teachers of the Zill Parishads, even intra-district, will not be implemented. The Petitioners would have an opportunity to seek such transfer or give their options only in the next academic session, namely, 2019-2020. We accept this statement made by the learned Advocate General and dispose of this Petition. We clarify that we have not expressed any opinion in so far as the merits of the rival contentions.”

6. In the light of the order passed and reproduced above, the reliefs claimed in these Civil Applications cannot be granted. However, Mr. Thorat appearing for the Thane Zilla Parishad states that the Thane Zilla Parishad had already forwarded the option forms of some of the teachers and the Collector and the Commissioner incharge of Palghar Revenue District and the Chief Executive Officer of the Palghar Zilla Parishad have issued appropriate posting orders and the teachers have reported for work at the schools and which are located in tribal areas, at least that arrangement should not be disturbed.

7. The learned AGP states on instructions that everything that has been done by the authority and prior to the promulgation of the Code of Conduct for the Election of the Palghar Parliamentary Constituency and till that was in force, will not be disturbed nor the service conditions will be adversely affected. This statement made on instructions is accepted as an undertaking to the Court. The Civil Applications are accordingly disposed of with no order as to costs.

(Smt. Bharati H. Dangre, J.) (S.C.Dharmadhikari, J.)