

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

WRIT PETITION NO. 5719 OF 2018

Archana Bhagwan Bhakare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri N. L. Jadhav, Advocate for the Petitioner.

Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 and 2.

Shri B. T. Bodkhe, Advocate for the Respondent No. 3.

The Respondent Nos. 5 and 6 are served.

Shri V. N. Shelke, Advocate for the Respondent No. 6.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 29TH APRIL, 2019.

FINAL ORDER :

. Mr. Jadhav, the learned counsel for the petitioner submits that, the petitioner possesses qualification of M. A. The petitioner on 07.10.2008 is appointed as Anganwadi Madatnis at Patoda and since then is serving as Anganwadi Madatnis at Patoda. The petitioner's name is at Sr. No. 3 at Anganwadi No. 2. The respondent No. 6 is at Sr. No. 5 at Anganwadi No. 1 and the petitioner is at Sr. No. 3 at Anganwadi No. 2. The certificate is also issued in favour of the petitioner clarifying that the petitioner is working at Anganwadi No. 2. The learned counsel

submits that, there was vacant post of Anganwadi Sevika at Patoda in Anganwadi No. 2. The petitioner applied for the said post in view of the Government Resolution. The respondent No. 6 is appointed as Anganwadi Sevika in Anganwadi No. 2. The learned counsel submits that, the Government Resolution dated 13th August, 2014 has been violated. The person working as a Anganwadi Madatnis in the same Anganwadi has to be considered for the post of Anganwadi Sevika.

2. The learned counsel for the Zilla Parishad submits that, the petitioner has an alternate remedy to approach the Chief Executive Officer, Zilla Parishad Beed. The village panchayat Patoda is converted into Nagar Panchayat Patoda. Eleven Anganwadi centers are run in the said area. They are not yet handed over to the urban project. In view of that direct appointment is given to the respective candidates of eleven Anganwadi centers including the respondent No. 6 at Anganwadi No. 2 at Patoda. The learned counsel submits that, the petitioner had appeared for M. A. Ist year and has not completed the same. The learned counsel submits that, considering the Government Resolution dated 13.08.2014, if two candidates have same qualification, then candidate having seniority in age has to be considered and given preference. The petitioner and respondent No. 6 possess same qualification and respondent No. 6 is senior in age. As such the respondent No. 6 is preferred.

3. Mr. Shelke, the learned counsel for the respondent No. 6 submits that, the respondent No. 6 has completed her M. A. and has been issued with the degree of M. A. The learned counsel submits that, the appointment of the respondent No. 6 has been made on merits and has been rightly made.

4. It is not disputed that the petitioner was working in Anganwadi No. 2 as Anganwadi Madatnis and the respondent No. 6 was working as Anganwadi Madatnis in Anganwadi No. 1. The post of Anganwadi Sevika became vacant in Anganwadi No.

2. It is also not disputed that, petitioner possess basic qualification for the post of Anganwadi Sevika. The petitioner had also completed almost ten years of service as Anganwadi Madatnis. In view of Government Resolution dated 13th August, 2014, the petitioner ought to have been considered for the post of Anganwadi Sevika in Anganwadi No. 2. There is no question of seniority in age as the petitioner and the respondent No. 6 are working in different Anganwadies.

5. Considering the fact that the petitioner was eligible to be appointed as Anganwadi Sevika for Anganwadi No. 2, we had asked the learned counsel for the Zilla Parishad regarding status of vacancies for the post of Anganwadi Sevika. Mr. Bodkhe, the learned counsel submits that, two posts of Anganwadi Sevika for

Anganwadi at Gitewadi and Anganwadi at Mangewadi are vacant.

6. In the light of the above, we pass following order.

7. The appointment of the respondent No. 6 as Anganwadi Sevika in Anganwadi No. 2 is set aside. The respondent No. 6 shall be appointed as Anganwadi sevika on vacant post of Anganwadi Center at Gittewadi and/or Mangewadi as per choice of the respondent No. 6. This order is passed, as Mr. Bodkhe, the learned advocate on instructions of the authority has submitted that at both these places there is no qualified Anganwadi Madatnis to be considered for the post of Anganwadi Sevika. The necessary exercise shall be done of issuing appointment orders to the petitioner and the respondent No. 6 accordingly within a period of four weeks from today.

8. In view of the above, the writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 19