

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.4403 OF 2019

Dr.Prashant s/o Suresh Salve
and others

Petitioners

Versus

The Election Commission of India
and others

Respondents

Mr.A.G.Ambetkar, advocate for the petitioners.

Mr.Alok Sharma, advocate for Respondents No.1 to 3.

Mr.S.R.Andhale, advocate for Respondent No.4.

**CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.**

DATE : 05th April, 2019.

P.C. :

Heard learned Counsel for respective parties.

2 Petitioners no.1 to 8 are Assistant Professors teaching their respective subjects and petitioner no.9 is Librarian. Petitioners no.1 to 9 are working in Babuji Avhad Mahavidyalaya, Pathardi, District Ahmednagar.

3 Petitioners are aggrieved by the communication dated 25.03.2019, issued by the District Election Officer, Ahmednagar. By this communication, petitioners were informed that they are appointed as Presiding Officers at the Polling Centres for the General Elections-2019 and were directed to attend the training scheduled on 07.04.2019.

4 It is the submission of the learned Counsel for petitioners that the duty assigned to the petitioners to work as Presiding Officers and to attend consequential training would cause serious hardship so far as the academic session and examinations are concerned, which would be conducted by the University in near future.

5 In support of his submissions, learned Counsel for the petitioners, has placed reliance on the communication issued by the Election Commission of India on 16.02.2010, informing the Chief Electoral Officers in the States that, *Group A or equivalent Senior Officers, including teaching staff of Universities, colleges, etc. should not be drafted for "Polling duties" in polling station premises without specific reasons to be recorded in writing by the District Election Officer, where such appointments become unavoidable.* The learned Counsel also relied upon the order passed by the Hon'ble Apex Court in the matter of **Election Commission of India Vs. St. Marys School and others**, reported in 2008 AIR (SC) 655. Learned Counsel for petitioners also submitted before us that the Principal of the College submitted a representation to the Returning Officer expressing difficulties to be faced in the academic session and examination schedule. The communication, to that effect, dated 26.03.2019, is placed on record at Exhibit "D".

6 Though submissions of the learned Counsel for petitioners seem to be attractive at the first instance, we are unable to show any indulgence in the petition for more than one reason. Firstly, so far as the training scheduled on 7th April, 2019, is

concerned, since, 7th April, being a Sunday, public holiday, it will certainly not disturb any academic session of the petitioners. Insofar as the polling date is concerned i.e. 23rd April, 2019, in the wake of the General Elections, which are being issued by the Election Commission of India, the academic authorities, such as Universities and Colleges are certainly required to change the examination schedule so as to facilitate the voters to attend the polling centres and exercise their right of voting.

7 The learned Counsel for the petitioners has placed reliance on the order dated 25.03.2019, passed by the Division Bench at Principal Seat, in **W.P. (ST.) No.966 of 2019** (Bombay University & College Teachers' Union Vs. Election Commission of India & others). In the said matter, the Division Bench was pleased to accept the statement made on behalf of Respondent No.1- Election Commission of India, that the services of the teachers, who are members of petitioner-association, will be requisitioned only for the election duties only on public holidays. The Division Bench, accepting the statement, that as far as possible, training will be scheduled on public holidays, disposed of the writ petition.

8 Mr.Alok Sharma, learned Counsel appearing for all respondents, submits that the petitioners are directed to attend the training, scheduled on 07.04.2019, which is a Sunday, public holiday. On instructions, he further states that the respondents have allotted election work to the petitioners probably on holidays and, therefore, there is no difficulty to attend the election work. He submits that that petitioners do not fall in the exempted category,

hence no relaxation can be given to them.

9 In our opinion, the statements made by the learned Counsel appearing for Respondents would take care of the grievance raised by the petitioners in the instant petition, since, in similar circumstances, the Division Bench, at the Principal Seat, accepting similar statement, disposed of the petition before it. We further make it clear that the statements made by the learned Counsel for respondents also take care of a situation wherein an apprehension is expressed that because of duties assigned to these petitioners, the examination scheduled would be hampered.

10 Considering these facts, we see no reason to take a different view than the view adopted by the Division Bench at Principal Seat, in the order dated 25.03.2019 (cited *supra*). Accordingly, we find no reason to cause interference in the petition.

11 Learned Counsel for petitioners tenders copy of the communication issued by CAP Director and submits that petitioner no.1 is assigned with the duty in relation to Central Assessment Programme (CAP).

12 Insofar as petitioner 1 – Dr. Prashant Suresh Salve, is concerned, we permit him to submit representation to the respondents and more particularly, to Respondent No. 2, in case petitioner no. 1 is assigned with duties as central assessment programmer in the examination. Needless to state that, if such representation is made to respondent authorities, they shall decide the representation on its own merits.

13 The petition, thus being without merit, deserves to be dismissed and is accordingly dismissed.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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