

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

WRIT PETITION NO. 1161 OF 2019

Somnath S/o Ganpatrao Biradar
Age: 40 years, Occu. Gram – Rojgar Sevak
R/o Sangam, Tq. Deoni,
Dist. Latur

..PETITIONER

VERSUS

- 1) The State of Maharashtra
- 2) The Divisional Commissioner
Aurangabad Division, Aurangabad
- 3) The District Collector,
Latur
- 4) The Chief Executive Officer
Zilla Parishad, Latur
- 5) The Deputy Chief Executive Officer(MNREGA)
Zilla Parishad, Latur
- 6) The Block Development Officer,
Panchayat Samiti, Deoni,
Tq. Deoni, Dist. Latur
- 7) The Gram Panchayat Sangam,
Tq.Deoni, Dist. Latur

..RESPONDENTS

Mr Sarang P. Joshi, Advocate for petitioner;
Ms. R. P. Gaur, A.G.P. for respondent Nos.1 to 3

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 25th February, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner is before this Court with the principal prayer i.e. prayer clause (C), which reads thus :-

"By writ of mandamus or any other appropriate writ, order or direction in the like nature, the respondent no.1 be directed to decide the representation dated 29th November, 2016 made by the petitioner and petitioner be absorbed permanently in Government service."

3. Learned Counsel appearing on behalf of the petitioner vehemently submitted before us that the petitioner is approaching this Court with a limited grievance of delay in decision on the representation of the petitioner.

4. The facts which emerge on the backdrop of the submission of the Counsel and from perusal of the material placed on record are, the petitioner; who was possessing the academic qualification of S.S.C. was appointed as Gram Rojgar Sevak in Grampanchayat, Sangam, Taluka Deoni, Dist. Latur. It is submitted that a Gram Rojgar Sevak is helper or associate to three persons, namely, Grampanchayat, Gramsevak and Labour. It is then submitted that

the State Government floated this particular scheme of appointing Gram Rojgar Sevaks under the Government Resolution dated 2nd May, 2011. A copy of the said Resolution is placed on record at Exh.A. It is submitted before us that the petitioner was appointed in the year 2008 and till date he is working as Gram Rojgar Sevak and his work is satisfactory and unblemished.

5. The other contents in the petition are, the petitioner is in the middle of his age and requires stability to live with self-respect. It is then submitted that the petitioner had approached the respondents authorities with a prayer of his absorption permanently in Government service and one of such prayers is in the form of representation dated 11th January, 2018 to the Chief Executive Officer, Zilla Parishad, Latur. The Chief Executive Officer of Zilla Parishad, Latur is respondent no.4.

6. Learned Counsel submitted that perusal of the representation placed on record shows that the petitioner submits to the authority that he was appointed on 26th January, 2008 as Gram Rojgar Sevak under the scheme, namely, Mahatma Gandhi National Rural Employment Guarantee Scheme (for short "MNREGA") and he is working since last 8 to 10 years on an honorarium and further it is prayed to the Chief Executive Officer of the Zilla Parishad that the petitioner be absorbed in services by granting regularization and

permanency. Learned Counsel then submitted that in identical circumstances, the Division Bench of this Court in Writ Petition No.2767 of 2016 directed the competent authority to decide the petitioner's representation on its own merits and in accordance with law. The Division Bench also directed the authority to observe the stipulation of period for deciding the representation.

7. On a specific query made to the learned Counsel as to whether the very scheme in the nature of Government Resolution/Circular dated 2nd May, 2011 was placed before this Court in Writ Petition No.2767 of 2017, learned Counsel fairly submitted before us that a copy of the said Resolution/Circular was not placed before the Division Bench in Writ Petition No.2767 of 2017.

8. We have gone through the copy of the Resolution placed on record at Exh.A. Considering the facts which are already referred by us in the earlier part of the order and considering the nature of the scheme reflected in the Government Resolution/Circular, dated 2nd May, 2011, we are of the opinion that the petitioner is approaching this Court on an erroneous impression as well as assumptions and presumptions. We have formed this opinion for the following reasons. The petitioner is approaching the authority with a representation and requesting the authority for grant of regularization and permanency. If the Government Resolution/Circular dated 2nd

May, 2011 is perused, it clearly opens with the limited scope of this particular engagements. Clause (1) of the Government Resolution clearly states that it is the duty of the Sarpanch and the Gramsevak to maintain the records and registers of MNREGA and then it states that the nature of the duty of the Gram Rojgar Sevak is a limited one and that is to assist the Sarpanch and Gramsevak. Then it is further made clear that this duty of Gram Rojgar Sevak is a part time job. Then again to reiterate the object, it states that a person who is appointed as a Gram Rojgar Sevak must not carry an impression in his mind that this engagement is a financial source being provided to him to earn a livelihood for his family. It is again further made clear with a statement that the person so appointed is not prevented from any other occupation or to work if he is doing to earn livelihood and the honorarium being provided to the Gram Rojgar Sevak is only an additional source of income to the person. By clause (c), it is further stated that the honorarium would be dependent on the work carried out by Gram Rojgar Sevak. Then again to reiterate the position, the clause states that the services of Gram Rojgar Sevak are of clearly temporary nature and he is neither the employee of the State Government nor Zilla Parishad nor Panchayat Samiti. Not only this, but it further states that these Gram Rojgar Sevaks cannot be treated as regular employees of the Grampanchayat. Then it refers to requisite conditions, etc. Then clause (7) of the Resolution speaks

about financial burden the State carries. It states that Gram Rojgar Sevaks are entitled to receive the honorarium in proportion to the work conducted by them. It is further stated that this financial burden of honorarium is to be borne out of the administrative expenses and to the tune of 6% of the administrative expenses. Then it is further stated that such honorarium be paid on a periodical basis, such as every fortnight and then again it is stated that there should not be more than two installments of the honorarium in one month. Then this clause also takes care of the expenses incurred by these Gram Rojgar Sevaks for travelling purpose. Thus, reading the Government Resolution/Circular, we are of the clear opinion that this Circular is a complete document in respect of the nature of engagement of Gram Rojgar Sevaks and their entitlement as such.

It is also made clear from perusal of the document that the scheme nowhere provides such an expectation of the person that after completing a particular span of work he would be entitled to get the benefits as that of a regular employee or a permanent employee.

9. Considering all aforesaid aspects, we are of the opinion that the petition is based only on assumptions and presumptions being carried by the petitioner without there being any support from the Government Resolution dated 2nd May, 2011. Thus, the petition being merit-less deserves to be dismissed at the threshold.

10. Though the learned Counsel made an attempt to submit before us that in the identical circumstances the Division Bench of this Court by order dated 18th July, 2017 directed the respondents authorities to consider the representation, we are unable to accept the submission of the Counsel for the simple reason that the nature of the scheme which we have dealt with in detail was not brought to the notice of the Division Bench and as such the Division Bench simply directed the authority to decide the representation.

11. In that view of the matter, the petition being merit-less deserves to be dismissed at the admission stage and the same is accordingly dismissed.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

amj