

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.707 OF 2019

INDIRA VISHWANATH DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Deshmukh Shivraj V.
AGP for Respondent 1 : Shri Yadav-Lonikar S.R.
Advocate for Respondents 2 & 3 : Shri Aghav Avinash D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 01, 2019

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PER COURT :-

1. The petitioner is aggrieved by the stigmatic termination order dated 1.8.2016. Allegations have been levelled upon her and she has been terminated on the basis of the same. Admittedly, neither any charge sheet was served upon her, nor was a departmental enquiry conducted. The petitioner has been working as a Balwadi Madatnis from 1993 onwards i.e. for the last about 23 years.

2. Learned Advocate for the Zilla Parishad submits that a show cause notice was given to the petitioner. Based on the same, she has been terminated. A departmental appeal is provided and she has not availed of the said remedy.

3. This Court has dealt with an identical issue in the matter of Mangalbai Jaspalsinh Bayas Vs. State of Maharashtra and others [2016 (1) Mah. L.J. 331]. In similar set of facts, the petitioner was terminated with a stigmatic order by the Zilla Parishad. This Court concluded in paragraph No.17 that such an alternate remedy, based on a Government Resolution dated 5.8.2010, would not be an impediment for entertaining a Writ Petition and more so for the reason that Clause 5 of the said Government Resolution provides for the redressal of any grievance, regarding selection and appointments of Anganwadi Madatnis / Sevika.

4. The learned Advocate for the Zilla Parishad relies upon a earlier Government Resolution dated 12.4.2007 to contend that though an Anganwadi Madatnis may be stigmatically terminated, she cannot come to this Court as the Government Resolution allows her to file an appeal to the Zilla Parishad (Integrated Child Development Agency, through it's Chief Officer).

5. This has also been dealt with by this Court in the matter of Deputy Chief Officer (Child Welfare), Zilla Parishad, Ahmednagar Vs. Smt. Ratan Eknath Gund [2015 (2) Mah.L.J. 616].

6. In the light of the above, this is an open and shut case,

wherein, there is not an iota of evidence, recorded in a departmental enquiry to conclude that the petitioner has indulged in misappropriation and other misconducts. Permitting the respondents to terminate an employee after having put in decades of service would amount to allowing such authority to act as per their whims and fancies. The judgment delivered in Smt. Ratan Eknath Gund (supra), should have been an eye opener for the respondents. Even prior thereto, this Court has delivered a judgment in Vidya Vishnu Vanare Vs. State of Maharashtra [2011 (2) Mah. L.J. 221].

7. In view of the above and for the reasons and the law laid down in the cases of Vidya Vishnu Vanare, Ratan Eknath Gund and Mangalbai Jaspalsinh Bayas (supra), this petition is allowed. The impugned order dated 1.8.2016 is quashed and set aside and the respondents are directed to reinstate the petitioner in service with continuity and 50% back wages, considering the above reported judgments. Needless to state, if the petitioner is reinstated in service and is paid the back wages as directed, within four weeks from today, respondent No.2 / Zilla Parishad would be at liberty to take recourse to the law for conducting a departmental enquiry against the petitioner.

(RAVINDRA V. GHUGE, J.)

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