

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11998 OF 2016

Bibhishan s/o Rangnath Bodhwad,
age: 52 years, Occ: Service,
R/o Vidyanagar, Near West Mane Complex,
Beed, District Beed.

Petitioner

Versus

01 The State of Maharashtra,
through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai.

02 The Secretary,
General Administration Department,
Mantralaya, Mumbai.

03 The Chief Executive Officer,
Zilla Parishad, Beed.

04 The Education Officer (Primary),
Zilla Parishad, Beed.

05 Gangadhar s/o Bhagwantrao Kshirsagar,
age: major, Occ: Service,
R/o Extension Officer (Education),
Class-III, Panchayat Samiti, Beed.

06 The Divisional Commissioner,
Aurangabad Revenue Division,
Aurangabad.

Respondents

Mr.A.S.Deshpande, advocate for the petitioner.
Mr.N.T.Bhagat, AGP for Respondents No.1, 2 & 6.
Mr.Y.K.Bobade, advocate for Respondents No.3 & 4.
Mr.S.S.Phatale, advocate for Respondent No.5.

CORAM : ROHIT B.DEEO, J.

DATE : 06/01/2020

ORAL JUDGMENT :

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is assailing the order dated 18.06.2016, rendered by Respondent No.3 whereby and whereunder the petitioner is reverted from the post of Extension Officer (Education) to the post of Head Master and Respondent No.5 is promoted in place of the petitioner.

3 The short submission of the learned Counsel for the petitioner is that the order is passed in gross breach of the principles of natural justice. The petitioner would submit that he was neither noticed nor was heard in the matter.

4 In rebuttal, the learned Counsel for Respondent No.5 and learned AGP would submit that Respondent No.3 was not obliged to issue notice. The submission is that, since the promotion of the petitioner was temporary and only in view of the fact that Respondent No.5, who was senior, did not possess the validity certificate issued under the provisions of the Maharashtra

Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, the Respondent No.3 was not under obligation to hear the petitioner before passing the reversion order. The learned Counsel for Respondent No.5 and the learned AGP would submit that there is no error in promoting Respondent No.5, since the validity certificate was secured after the meeting of the DPC and as a fact, after the promotion of the petitioner.

5 The petitioner was promoted in the year 2008 and having held the post for eight long years, even assuming that the promotion was temporary, it is least expected that he would be given an opportunity to show cause against the proposed reversion. The submission that, since Respondent No.5 is rightly promoted, reversion of the petitioner is only consequential and could have been ordered without issuance of notice and hearing, is considered only for rejection.

6 In this view of the matter, the order impugned is set aside and Respondent No.3 is directed to pass fresh order after hearing the petitioner and Respondent No.5, who shall appear

before Respondent No.3 on 21.01.2020. The final order shall be passed within thirty days from the date of appearance of the parties.

7 It is an admitted position that presently, Respondent No.5 is in charge of the post. Respondent No.5 shall continue to hold the post, subject to the decision, which may be taken by Respondent No.3, after hearing the parties.

8 At this stage, Shri Deshpande, learned Counsel for the petitioner, would submit that even if Respondent No.5 is held entitled to promotion in place of the petitioner, it is likely that there would be other vacancy to which the petitioner can be appointed, being the next in line in the seniority list.

9 The authority shall take note of the submission and consider the same either way on merits.

10 Rule is made absolute in aforestated terms.

(ROHIT B.DEO)
JUDGE