

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

MISC. CIVIL APPLICATION NO. 32 OF 2020

Anisuddin Qutbuddin & Anr.

..VS..

Chief Executive Officer, Zilla Parishad, Akola & Oth.

AND

MISC. CIVIL APPLICATION NO. 33 OF 2020

Sajeeda Parveen Shaukat Ali

..VS..

Chief Executive Officer, Zilla Parishad, Akola & Oth.

AND

MISC. CIVIL APPLICATION NO. 34 OF 2020

Wasimuddin Alimuddin & Anr.

..VS..

Chief Executive Officer, Zilla Parishad, Akola & Oth.

IN

WRIT PETITION NO.3050 OF 2017

Anisuddin Kutbuddin & oths.

..VS..

Chief Executive Officer, Zilla Parishad, Akola & Oth.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. P. Bhandarkar, Advocate for the petitioners/applicants
Ms Tajwar Khan, A.G.P. for the respondent No.3

CORAM : Z.A.HAQ AND

MANISH PITALE, JJ.

DATED : 17th JANUARY 2020

These three civil applications, seeking review of the order disposing the petition, are filed by the petitioners, who had jointly filed the Writ Petition No. 3050 of 2017.

2] Heard Shri S. P. Bhandarkar, Advocate for the applicants/petitioners and Ms Tajwar Khan, A.G.P. for the non-applicant /respondent No.3.

3] It is pointed out that notices of these civil applications are not issued to the non-applicants/respondent Nos.1 and 2. Considering the nature of controversy, we are of the view that these three civil applications can be disposed without issuing notice to the non-applicants/respondent Nos. 1 and 2 and without hearing them.

4] In the writ petition, the petitioners had sought reliefs as per the following prayers :

“A] Quash and set aside the communication/ notice dated 02/05/2017 (Annexure No.E) issued by Chief Executive Officer, Zilla Parishad, Akola (Respondent No.1).

B] Direct the Chief Executive Officer Zilla Parishad (Respondent No.1) to accept that necessary documents from the Petitioners and immediate forward it to the Divisional Cast Scrutiny Committee No. 2 Akola (Respondent No.2).

C] Direct the Divisional Cast Scrutiny Committee No.2 Akola (Respondent No.2) to decide the cast claim of the petitioners within a stipulated period in the interest of justice.”

5] On 2nd January 2020, after hearing the learned A.G.P. and going through the record, we found that there were lapses on the part of the petitioners in moving the proposal/application for validation of their caste certificates and therefore, we declined to grant the reliefs sought by the petitioners.

6] Now Misc. Civil Application No. 32 of 2020 is filed praying for review of the order passed by this Court disposing the writ petition. According to the petitioner Nos. 1 and 5, they are granted Caste Validity Certificates on 10th January 2019 and 17th October 2018 and therefore, the prayers made on their behalf in the writ petition had become infructuous.

7] Misc. Civil Application No. 33 of 2020 is filed by petitioner No.4 and Misc. Civil Application No. 34 of 2020 is filed by petitioner Nos. 2 and 3. These petitioner Nos. 2, 3 and 4 contend that their appointments were made on posts available for open category candidates and not on the posts reserved for backward class candidates. It is submitted on behalf of petitioner Nos. 2, 3 and 4 that if the order dated 2nd January 2020 is recalled and writ petition is restored petitioner Nos.2, 3 and 4 do not want to prosecute the petition for the reliefs as per the prayer clause A, B and C. However, these petitioner Nos. 2, 3 and 4 seek liberty to file fresh petition to challenge the communication dated 2nd May 2017 on the ground that these petitioners are not required to submit the Caste Validity Certificates, their appointments being on posts available for open candidates.

In view of the submissions made on behalf of the petitioners (applicants) in these three civil applications, following order is passed:

ORDER

The order dated 2nd January 2020 disposing the petition is recalled. The writ petition No.3050 of 2017 is restored. Misc. Civil Application Nos. 32 of 2020, 33 of 2020 and 34 of 2020 are disposed accordingly.

In the circumstances, parties to bear their own costs.

WRIT PETITION NO. 3050 OF 2017

For the reasons recorded in the order passed on Misc. Civil Application Nos. 32 of 2020, 33 of 2020 and 34 of 2020, writ petition on behalf of the petitioner Nos. 1 and 5 is disposed as withdrawn.

Writ petition on behalf of the petitioner Nos.2, 3 and 4 is also disposed as withdrawn. However, liberty is granted to petitioner Nos.2, 3 and 4 to file fresh petition seeking declaration that their appointments were made on posts available for open category candidates and not in the posts reserved for backward class candidates.

Writ Petition is **disposed** accordingly. In the circumstances, parties to bear their own costs.

(MANISH PITALE, J.)

(Z.A. HAQ, J.)