

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

WRIT PETITION NO. 766 OF 2020

Sandip Balasaheb Shelar

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. P.G. Tambade and Mr. D.A. Bide, Advocates for petitioner
Mr. S.P. Tiwari, A.G.P. for respondent – State
Ms. S.E. Waghmare, Advocate for respondent no.3

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**CORAM : R.G. AVACHAT, J.
DATED : 14th JANUARY, 2021**

PER COURT :

1. Heard.
2. The challenge in this writ petition is to order passed by the competent authority/Commissioner for Persons with Disabilities, Maharashtra State, Pune ('commissioner') on 01st November, 2019.
3. Grievance of the petitioner is that he is physically handicapped. The Grampanchayat, village Gondegaon appointed him on the post of a clerk on contract. The petitioner was transferred from the administrative office of the grampanchayat to the water supply department. He has been asked to do

a job of supplying water to the villagers at odd times. The job assigned to him is heavy. Due to his disability, he is unable to perform the same. The petitioner, therefore, approached the competent authority / commissioner by filing appeal challenging the oral order passed by village development officer. The commissioner partly allowed his appeal directing the grampanchayat to pay the petitioner arrears of salary in a period of thirty days. The grampanchayat has also been directed to follow the government resolutions issued time to time as regards providing facilities to the physically handicapped employees. The commissioner has, however, not passed any order regarding the petitioner's grievance of having been transferred to the water supply department. The petitioner is, therefore, before this court.

4. Ms. Waghmare, learned counsel for Respondent No.3 would submit that the petitioner has not been assigned any heavy work. Water is required to be supplied to the villagers. The petitioner is only required to push a button for supply of water. The petitioner may be physically disabled, but not unable to do such job. Being an employee of grampanchayat, he has to perform the job assigned to him. She, therefore, urged for dismissal of the petition.

5. The petitioner was personally present before the Court. There is certificate on record indicating the petitioner to have been 52% physically

disabled. I also found him to be disabled in his right hand. The petitioner is graduate. He has also passed MS-CIT. His appointment order indicate him to have been recruited for the post of clerk. Asking him to do a job of supplying water, instead of doing a clerical work in the office, would necessarily be inconsistent with his post and condition of service. The order (oral) transferring him to water supply department is, therefore, unsustainable in law. There are two posts of clerks. One is vacant. The petitioner can very well be transferred back to his post of clerk.

6. Writ Petition is, therefore, allowed in terms of following order :-

ORDER

(I) Respondent Nos. 3 and 4 are directed to transfer the petitioner to the post of clerk on which he was appointed.

(II) Writ petition is disposed of.

(R.G. AVACHAT, J.)

SSD