

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 4186 OF 2021

LAXMAN SIDRAM SANKADE
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Sagar S. Phatale
Addl. GP for Respondent No. 1 : Mr. P. S. Patil
Advocate for Respondent Nos 2 to 4 : Mr. S.B. Pulkundwar

...
**CORAM : RAVINDRA V. GHUGE AND
S. G. DIGE, JJ.**

DATE : 12th APRIL, 2022

PER COURT :-

1. By this petition, the petitioner has put-forth prayer clause “B” as under:

“B. The impugned order dated 11/08/2020 issued by the respondent no. 2, denying the benefits of Ashwasit Pragati Yojna i.e. in Service Assured Progression Scheme in seventh pay commission to the petitioner and insisting for caste validity certificate of the petitioner for granting said benefits, may kindly be quashed and set aside, being the appointment of the petitioner is from open category and the respondent no. 2 to 4 may kindly be directed to grant the benefits of Ashwasit Pragati Yojna i.e. in Service Assured Progression Scheme in seventh pay commission to the petitioner without insisting for caste validity certificate.”

2. We have considered the submissions of the learned Advocates for the respective sides and especially the vehement submissions of the learned advocate on behalf of respondent Nos. 2 to 4.

3. It is absolutely undisputed that the petitioner has not been granted benefits of the Assured Progression Scheme, though being eligible, on the ground that he has not tendered his caste validity certificate when the caste is mentioned in the service book. The petitioner had applied for employment to the post, which was in the open category and he was selected and appointed from the open category. He is not occupying the post which can be said to be reserved for a backward category. Five members of the Committee have refused the benefits of Assured Progression Scheme to the petitioner and based on the same, the Chief Executive Officer has passed an order on 11-08-2020 refusing to grant such benefits until the petitioner produces the validity certificate.

4. We are, therefore, convinced that five members of the Committee as well as Chief Executive Officer have unnecessarily harassed the petitioner and have compelled him to approach this Court.

5. The learned advocate for the Zilla Parishad submits that the Committee is now willing and ready to give the benefits of the Assured Progression Scheme to the petitioner and this contention should be recorded in the order. We are surprised by the courage of this

Committee which has the audacity to tell the Court that now they would oblige the petitioner, after approaching this Court for justice, by paying the benefits of the APS Scheme. This is a good ground for imposition of costs considering the glaring conduct of the Committee.

6. In view of this, the petition is allowed. The order dated 11-08-2020 is quashed and set aside with following directions:-

(a) All five members of the Committee shall pay costs of Rs.5000/-(Rupees Five Thousand) each, as well as the Chief Executive Officer, Zilla Parishad, Nanded shall pay costs of Rs.5000/-(Rupees Five thousand), from their respective salary accounts, to the petitioner for having been made to suffer the rigours of litigation unnecessarily.

(b) The benefits of the Assured Progression Scheme shall be granted to the petitioner on or before 31st May, 2022, from the date of his eligibility.

(c) The costs amount, either shall be deposited in this Court or may be directly paid to the petitioner on or before 31st May, 2022.

(S.G. DIGE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE