

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5847 OF 2021

Gautam Gyanoba Bansode

..Petitioner

V/s.

The State of Maharashtra and Ors.

..Respondents

Mr. Amit Mukhedkar for the Petitioner.

Ms. Vaishali Patil-Jadhav, AGP for the Respondent/State.

Mr. N.S. Kadam for Respondent Nos. 2 and 3.

CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, J.J.

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RESERVED ON : 13 JUNE 2022
PRONOUNCED ON : 4 AUGUST 2022

(Signed judgment is pronounced by Sandipkumar C. More, J. as per clause (i) of Rule 1 of Chapter XI of Bombay High Court Appellate Side Rules, 1960 as C.V. Bhadang, J. is sitting at Mumbai)

JUDGMENT (PER : C.V.BHADANG, J.)

. The challenge in this petition, is to the communication/order dated 06.03.2020 and 17.03.2020 of the 4th Respondent, the Chief Executive Officer, Zilla Parishad, Nanded, thereby refusing to grant benefit of *Dr. Babasaheb Ambedkar Krushi Swalamban Yojna* ('the said scheme' for short) under which financial assistance is provided to the members of the scheduled caste/nav Buddhas for digging of a new well in

their agricultural land. The benefit of the said scheme has been refused to be granted to the Petitioner on the ground that the Petitioner is having a third child born after 01.05.2001 and therefore, as per Government Resolution dated 19.09.2000, he was found to be ineligible for the benefit under the said scheme.

2. I have heard the learned counsel for the parties. Perused record.

3. It is submitted by the learned counsel for the Petitioner that the scheme is being implemented as per the Government Resolution dated 20.08.2019. The Petitioner had applied for financial assistance for digging of the well in the prescribed format on 25.08.2019 and all the relevant documents as required were annexed therewith. The learned counsel submitted that the Petitioner has five children and the youngest of them, namely Shuddhodhan is born on 25.08.2001. As such it is contended that all the children of the Petitioner are born prior to 12.09.2001 and thus, the Petitioner cannot be said to be ineligible for financial assistance under the said scheme. It is submitted that as per the Government Resolution dated 19.09.2000 on which reliance is placed by the Respondents, 18 Government schemes have been notified and the aforesaid scheme namely *Dr. Babasaheb Ambedkar Swalamban Yojna* does not find place in Government Resolution dated 19.09.2000. It is thus, submitted

that the benefit of the said scheme could not have been refused by placing reliance on Government Resolution dated 19.09.2000.

4. It is submitted that in a challenge to the election of the wife of the Petitioner, it was contended on behalf of one Devidas Lokhande that the date of birth of 5th child Shuddhodhan was 24.08.2004 and that was concealed by the wife of the Petitioner. However, that petition was dismissed by the Additional Collector, Nanded on 14.10.2016. It is thus submitted that refusal to extend the benefit of the scheme is not justified as the Petitioner has no child born after 12.09.2001.

5. The learned counsel for the Respondents referring to the affidavit-in-reply of one Tanaji Chimanshette has submitted that *Dr. Babasaheb Ambedkar Swalamban Yojana* is not a new scheme. It is submitted that the financial assistance was being provided to the members of the scheduled caste with the object of improving their standard of living as a 'Special Assistance Scheme' from the year 1982-83. As per a report of the committee constituted by the Government on 24.02.2016 and a report of the Committee dated 19.04.2016, the said scheme as well as *Dr. Babasaheb Ambedkar Swalamban Yojana* was decided to be implemented jointly with similar conditions. He, therefore, submitted that the requirements of Government Resolution

dated 19.09.2000 have to be read into the implementation of the said scheme.

6. We have considered the rival circumstances and the submissions made.

7. It is not in dispute that the Petitioner is having 5 children and according to the Petitioner, the youngest namely Shuddhodhan is born on 25.08.2001. The government by virtue of the Government Resolution dated 19.09.2000 had introduced population control measures disqualifying certain persons to be the beneficiaries of the Government schemes as set out in the said Government Resolution if the beneficiary has a third child born 01.05.2001. A bare perusal of the guidelines for implementation of the said scheme, under which the Petitioner is claiming financial assistance (page nos. 19B to 19J of the compilation) would show that earlier there was a scheme being implemented for upliftment of the standard of living of persons belonging to scheduled caste since 1982-83. The said scheme was implemented till 2016-17. It further shows that the Government on 24.02.2016 had constituted a committee which gave its report on 19.04.2016 and as per the recommendations of the Commissionerate of Agricultural dated 26.04.2016, the earlier scheme which was being implemented from 1982-83 was to be implemented as “Dr. Babasaheb Ambedkar Swalamban Yojna”. The object of the scheme was to prevent the loss of moisture and

retention of moisture in the soil. It can thus be seen that the earlier scheme which was implemented from 1982-83 to 2016-17 is now being implemented as new scheme under which the financial assistance is claimed by the Petitioner. In our view, the learned counsel for the Respondents is right that the said new scheme is being implemented with all the existence conditions about eligibility which are prescribed by virtue of the Government Resolution dated 19.09.2000, which indeed places an embargo on the eligibility of a person to get financial assistance if he has a third child born after 1 May, 2001.

8. In the circumstances, the rejection of the appeal by the Additional Collector in respect of the Election of the wife of the Petitioner (thereby refusing to hold that Shuddhodhan was born on 24.08.2004 or that there was any suppression on that count) may not be relevant, inasmuch as even going by the birth date of Shuddhodhan as 25.08.2001, he is shown to be born after 01.05.2001. Hence, no case for interference is made out. The petition is accordingly rejected with no order as to costs.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.