

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1083 WRIT PETITION NO.6391 OF 2022

ASHOK KISANRAO DOLAS AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
AND OTHERS

Mr.S. B. Bhosale, Advocate for the petitioners
Mr. S. G. Sangle, AGP for the respondents
Mr. P. R. Nangre, Advocate for respondent Nos. 3
and 7

CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.

DATE : 01st July, 2022

P. C.

1. Leave to amend the prayer clause.
2. In these petitions filed by identically placed petitioners, they have putforth prayer clauses (B), (C) and (D) as under :-

B] By way of issuance of writ of mandamus or any other appropriate writ, order or directions in the like nature,

the Respondents No.3 and 5 may kindly be directed to decide Representations dated 13-06-2022 (Exh. E) submitted by the petitioners with immediate effect.

C] By way of issuance of writ of mandamus or any other appropriate writ, order or directions in the like nature, the Respondents No.3 and 5 may kindly be directed to update the column of current Management date in SARAL Portal in respect of the respective petitioners in view of the provisions of Rule 8(2) of the Maharashtra Zilla Parishad District Services (Recruitment) Rules, 1967 and Circulars dated 28.01.2019 issued by the respondent No.1 in this regard.

D] By way of issuance of writ of mandamus or any other appropriate writ, order or directions in the like nature, the respondent Nos.1 to 5 may kindly be restrained from effecting intra-district

transfers in the entire Aurangabad district till the updations made in the column of Current Management Date in the SARAL/Transfer Portal of the respective petitioners.

3. We have considered the submissions of the learned Advocates for the respective sides and the learned AGP on behalf of the State authorities. It is undisputed that the coordinate Bench of this Court has delivered an order on 21.04.2022 in Writ Petition No.102 of 2020, filed by Satish Shahadeo Gawade and Ors. Vs. The State of Maharashtra and others and connected group of petitions, dealing with the identical situation. The petitions were disposed off with a direction to the Chief Executive Officer to implement the Government Resolution and prepare a seniority list for effecting intra-district transfers in accordance with clause 4.5.1 of Government Resolution dated 07.04.2021. For the sake of clarity, we are reproducing the paragraphs as set out in the order dated

21.04.2022 in Satish Gawade (supra) to the extent of they are applicable to these cases, as under :-

"1. By consent of parties all these Writ Petitions were heard together and are being disposed of by a common order.

2. The common grievance in these petitions filed by various employees of Zilla Parishad is that, though the Zilla Parishad has rightly issued orders of various dates mentioning the seniority of all the teachers who were transferred inter-district as per Rule 6(8)(ii) of the Maharashtra Zilla Parishad District Services (Recruitment) Rules, 1967 (hereinafter referred to as 'the Rules, 1967'), the same seniority is not considered for the purpose of further transfers.

3. During the course of the argument the learned Addl. G.P. invited our attention to the Government Resolution dated 07th April, 2021 and more particularly Clause 4.5.1 and would submit that, the seniority granted to each of these petitioners who are transferred by mutual transfer under Rule 6(8)(ii) of the Rules, 1967 is for granting service benefits, whereas as per Clause 4.5.1 of the said Government

Resolution dated 07th April, 2021, a separate seniority list is required to be prepared for inter-district transfers.

4. The learned counsel for parties do not dispute that, the seniority list is already prepared under Rule 6(8)(ii) of the Rules, 1967 on the basis of the said Rule while transfers of each of these petitioners to different Zilla Parishad.

5. The learned counsel for the parties do not dispute that, for the purpose of further transfers, the provision of the Government Resolution dated 07th April, 2021 would apply and a separate seniority list only for that limited purpose is required to be prepared.

6. Each of these petitioners have made separate representation in that direction which are pending before the Authorities.

7. In view of the limited controversy for the separate seniority list for the purpose of effecting further intra-district transfers in terms of the Government Resolution dated 07th April, 2021 is yet to be prepared and the representations made by the petitioners are still pending, we direct the Chief Executive Officer of respective Zilla Parishads to consider the pending

representations and based thereon shall give effect to the decision that would be taken while preparing separate seniority list for the purpose of effecting intra-district transfers in terms of Government Resolution dated 07th April, 2021. The Chief Executive Officers of respective Zilla Parishads shall take appropriate decision on or before 29th April, 2022 after considering the representations made by each of these petitioners forming a part of their respective petitions.

8. xxx

9. It is made clear that, the Chief Executive Officer while implementing the direction issued by us in earlier paragraphs of this order to prepare seniority list for the purpose of effecting transfers in accordance with the Government Resolution dated 07th April, 2022 only.

10. xxx

11. Writ Petitions are disposed of in aforesaid terms. There shall be no orders as to costs.

12. xxx "

4. In view of the above, these petitions

are disposed off. The Chief Executive Officer, while implementing the directions issued in the foregoing paragraphs in Satish Gawade (supra), shall prepare a seniority list for the purpose of effecting intra-district transfers in accordance with the Government Resolution dated 07.04.2021.

[ANIL L. PANSARE, J.]

[RAVINDRA V. GHUGE, J.]

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